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The National Wildlife Refuge Systen...

THE NATIONAL WILDLIFE REFUGE SYSTEM MANAGEMENT AND POLICY ACT OF 1993

HEARING

BEFORE THE

SUBCOMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

H.R. 833

A BILL TO AMEND THE NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966 TO IMPROVE THE MANAGEMENT OF THE NATIONAL WILDLIFE REFUGE SYSTEM, AND FOR OTHER PURPOSES

AUGUST 9, 1994

Serial No. 103–122

Printed for the use of the Committee on Merchant Marine and Fisheries

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THE NATIONAL WILDLIFE REFUGE SYSTEM MANAGEMENT AND POLICY ACT OF 1993

TUESDAY, AUGUST 9, 1994

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES, COMMITTEE ON MERCHANT MARINE AND FISHERIES,

Washington, DC.

The Subcommittee met, pursuant to call, at 10:05 a.m., in room 1334, Longworth House Office Building, Hon. Gerry E. Studds [chairman of the Subcommittee] presiding.

Members present: Representatives Studds, Pallone, Laughlin, Unsoeld, Furse, Lambert, Saxton, Young, Weldon, Gilchrest, and Taylor.

Staff present: Dan Ashe, Staff Director; David Hoskins, Majority Counsel; Marvadell Zeeb, Subcommittee Clerk; Tod Preston, Professional Staff; Richard Russell, Minority Professional Staff; Margherita Woods, Minority Clerk; Sharon McKenna, Minority Counsel; and Harry Burroughs, Minority Staff Director.

Mr. STUDDS. The Subcommittee will come to order.

STATEMENT OF HON. GERRY E. STUDDS, A U.S. REPRESENTATIVE FROM MASSACHUSETTS, AND CHAIRMAN, SUBCOMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

Mr. STUDDS. We meet this morning to examine an issue which is far from a stranger to this Subcommittee—the well-being of our National Wildlife Refuge System. Totaling more than 91 million acres in 500 refuges nationwide, the Refuge System is one of our Nation's most important reserves of biological diversity, providing habitat for hundreds of fish and wildlife species. The Refuge System is the legacy of Teddy Roosevelt's pioneering effort nearly a century ago to set aside lands for the conservation of wildlife and, quite simply, it is a national treasure. In fact, it can proudly claim the title of the world's most comprehensive system of lands devoted to wildlife protection and management.

All has not been well throughout the system's history, however, as study after study has highlighted the fact that national wildlife refuges are often not the pristine wildlife havens implied by their name. Far too often, activities such as mining, oil and gas development, grazing, and power-boating have been allowed to continue, even though they are harmful to the critters who call refuges home.

We now have leadership at the Interior Department and the Fish and Wildlife Service which is determined to confront its steward-

ship responsibilities for the system, and I commend Director Beattie for so doing.

Today's distinguished panel of witnesses will testify specifically about legislation that has been introduced by Congressmen Gibbons and Synar and by Senator Graham. I myself have introduced bills similar to these in previous Congresses. All share three primary objectives: establish a system-wide set of purposes; require comprehensive planning for both individual refuges and the entire system; and standardize the process for determining compatible uses on refuges.

I want to particularly commend the distinguished Senator from Florida, and the former Chairman of the predecessor, I guess one would say, of this Subcommittee, Mr. Dingell. I also want to welcome the other members who are here to testify this morning.

We have determined the order in which we will begin the first two. Beyond that, we will be mystical in our selection of sequence. It had been agreed because of preceding commitments that the distinguished Chairman of the Energy and Commerce Committee, Mr. Dingell, will go first. He has conflicts, as we all do.

Mr. Chairman, let me just say to you that I remember very, very clearly your sitting in the chair in which I now sit. I began my service in this institution an embarrassing number of years ago, and learned a great deal from your stewardship.

We welcome you back.

STATEMENT OF HON. JOHN D. DINGELL, A U.S. REPRESENTATIVE FROM MICHIGAN

Mr. DINGELL. Thank you, Mr. Chairman.

Those were great days and I have great memories, as I am sure you do, of the work we did in those times. I am proud to be back. I want to observe that I am not a professional witness in this Committee.

I simply have found there have been a number of matters of great concern to me where I thought that I could possibly be helpful. I want to tell you what a pleasure it is for me to be back in this room and to see my associate, Mr. Weldon, also here, who serves with me on the Migratory Bird Refuge Commission, which is a small institution which does great work and of which we are both very proud.

One of the highlights of my life has been to be associated with the Refuge System in one way or another for almost 40 years. During that time, this system has grown from 300 refuges, totaling some 28 million acres in 1966, to better than 500 today, containing over 91 million acres.

I have been personally involved in a number of ways with most of the refuges that are included in this system, including, as you so kindly mentioned, serving as the Chairman of this Subcommittee from 1965 to 1974, and for having served, as I observed with my dear friend, Mr. Weldon, and other distinguished members of this body, as members of the Migratory Bird Conservation Commission, where we worked together to acquire some 600,000 acres of habitat for countless migratory birds and other wildlife.

As the Subcommittee is aware, the Commission reviews proposals for new refuge expansions and the specific land acquisition proposals to be purchased with duck stamp money, which is funds which are collected from hunters who buy a duck stamp as one of the conditions of their ability to legally hunt migratory waterfowl.

Mr. Chairman, today we recognize the broad spectrum of public interest and values in the Wildlife Refuge System. This system is now seen as having values for helping to recover threatened and endangered species and for contributing to the diversity in areas for serving the more traditional fish- and wildlife-related purposes, such as hunting, fishing, wildlife observation and photography.

At these hearings today, it is important that we recognize that our Nation's hunters and fishermen are providing constant support; indeed, support that is essential in financial and other ways for the well-being of the Refuge System. Not only have they supported the establishment and expansion of refuges by their votes, but also by putting their money where their mouth is.

And they, in contradiction to many of their critics, are actually the sustainers economically of the system, as opposed to simply users thereof. They purchase duck stamps and raise enormous sums of revenues from taxes collected for the sale of firearms and ammunition under Pittman-Robertson.

They also contribute to organizations such as Ducks Unlimited and Nature Conservancy, and organizations which help to acquire and restore wetlands. Most recently, sportsmen have helped to better the cooperative undertaking under the North American Wetlands Conservation Act.

There are those who say that the Refuge System could profit from an updated organic act. A number of studies by the General Accounting Office and Service have indicated that problems on the refuges range from overuse and toxic contamination to lack of funding and proper management. Yet the National Wildlife Refuge System Administration Act and the Refuge Recreation Act have been the enabling statutes for the Refuge System for better than 30 years. And there is a temptation to say, if it ain't broke, don't fix it.

Nevertheless, if we do attempt to solve these problems and improve the system, it seems to me we must keep some important principles in mind. First, any legislation needed to be enacted must be helpful to the Fish and Wildlife Service and to the refuge manager, and not to serve them up with a blizzard of paper work.

As you know, the system has expanded enormously in recent years and it has not been possible to provide a proportionate increase in funding. This means refuge managers have to do more with a lot less. We dare not give them an act that simply requires them to go through numerous acts of unproductive paperwork so that they see their futures as managing paper instead of being out there on the refuge and protecting and managing and administering the wildlife resources there.

Second, we cannot convert the Refuge System from its historic emphasis on protection and management of fish and wildlife to areas where managers will have additional constraints on their ability to do the management they consider necessary to make the

areas what Aldo Leopold envisioned as, "the finest example of modern wildlife management."

We simply cannot take away the refuges from the hunters and fishermen who are the driving force for their establishment, put them under glass as museums or outdoor zoos or junior grade national parks. In my view, such a move would not be within either the best interest or the tradition or the future of the National Wildlife Refuge System.

At this time, I do not want to provide specific comments or criticisms on the two legislative proposals before this Committee, H.R. 833 and S. 823. There will be a number of groups and individuals who will provide a very useful and, I believe, excellent analysis.

I do believe that the legislation reported by the Senate Environment and Natural Resources Committee is a substantial improvement on the original version. In final analysis, any legislation must contribute to sound, professional wildlife management, that is built on a strong foundation of past success, while dealing with some of the difficult problems of incompatible uses.

Let me discuss specifically the topic of hunting and fishing on wildlife refuges. I do not know anyone who thinks that hunting and fishing should necessarily take place on all refuges or even at all refuges every year on individual refuges where hunting is normally permitted.

The current standard in fish and wildlife regulations—and has been the case for the past 30 years—to open hunting on a refuge is that such activity must be compatible with the purposes of the refuge and with the principles of sound wildlife management, and will be otherwise in the public interest. It seems to me that this standard is both simple and effective and needs little in the way of change. This Committee should seriously consider including this standard in any legislation which it reports.

There are some who hold the misguided view that hunting and fishing is not a purpose of the Wildlife Refuge System. I want to take very specific issue with that. If hunting and fishing under appropriate conditions is not a purpose of the Wildlife Refuge System, it seems then that we have lost our way hopelessly.

I am particularly concerned about attempts to rewrite the history to make the 1962 Refuge Recreation Act, for which I was the Floor Manager, to classify hunting- and fishing-related use of refuges as incidental or secondary use in the category such as campgrounds, visitor centers, farming, grazing or oil and gas drilling. Careful reading of the 1962 Act and its legislative history, as well as the events which have surrounded the administration for the long 32 years since it was enacted, makes it clear that that is not a correct conclusion.

I would like to provide a brief history of the 1962 Act:

Following World War II, the Nation experienced tremendous increases in the use of outdoor recreation resources and facilities. To provide a basis for formulating legislation, Congress in 1958 established the Outdoor Recreation Resources Review Committee, ORRRC, chaired by Mr. Lawrence Rockefeller, to make recommendations to the President and to the Congress to meet the Nation's outdoor recreation needs.

The ORRRC reports were submitted to Congress in January, 1962. I may say as an aside, Mr. Chairman, that while we tend to take a ho-hum approach to the work of commissions, this commission was a spectacular success. Its recommendations led to the establishment of the Land and Water Conservation Act, the Wilderness Act, the Wild and Scenic Rivers Act, and the establishment of the National Recreation System. Among other things, that report recommended that Federal lands be managed for the broadest possible recreational benefits consistent with other essential uses.

It was in this atmosphere that H.R. 1171 was introduced in the 87th Congress, to increase public benefits from national fish and wildlife conservation areas through their incidental use for public recreation. As introduced, the bill did not contain the funding proviso.

I would mention just very much off the record, Mr. Chairman, that as we got this bill, it was originally drawn to open up certain areas to water-skiing and other things. And this was, in my view, a clear attempt on the part of the proponents to, very frankly, subject the refuges to uses which were clearly inconsistent with their basic purposes. We engaged in a very substantial rewrite of that legislation, with a result that it came out as a much more comprehensive, complete and balanced proposal, which was accepted by all, including the original sponsors.

In 1961, the hearings were held on H.R. 1171. Hunting and fishing were at that time long-established practices, accepted widely on almost all refuges. Indeed, receipts from the purchases by hunters of migratory bird stamps had financed the purchase of hundreds of thousands of refuge acres. In fact, more than 3 quarters of the areas acquired in the Refuge System were purchased by sportsmen dollars.

These hearings not only related to recreational uses such as hunting and fishing, but also related to hiking trails, boat ramps, toilet facilities, picnic tables and recreational amenities, which would only make refuges seem like Coney Island and which would draw away funds from the primary purposes. I would like to quote myself from the 1961 hearings, and I apologize for that, but I am one of the fellows who remembers what was going on at that time.

"Mr. Dingell: It occurs to me each time we pull an acre out of these refuges for construction of campground, or for construction of an educational exhibit, or a museum or concessionaire facility, we withdraw from the primary purposes of the refuge and, in effect, take duck stamp revenues and funds that hunters contribute for this program and use it for other purposes."

Mr. Chairman, I will attach the full statement of documents of this kind to the record, and ask unanimous consent that they be included.

[The information mentioned by Mr. Dingell follows at the end of the hearing.]

Mr. DINGELL. Now, in 1984, Mr. Chairman, an animal protection group sought legal action in the District of Columbia to end recreational hunting on all wildlife refuges. One of their arguments is that funding determinations had not been made and therefore hunts on 250 refuges were illegal.

In an excellent brief, the Department of Justice and the Department of Interior Solicitor's Office forcefully answered that argument. After the case was dismissed, the Interior Department's Solicitor's Office wisely recommended that funding determinations be made out of an abundance of caution. But prudent counsel is not required by law. This reading of the amendment would constitute a betrayal of the American hunter.

Mr. Chairman, I have talked very long and I have intruded on the time of my good friend, Senator Graham, my good friend, Mr. Gibbons, my good friend from Oklahoma over here, and Mr. Dickey and my other colleagues here at the table. I apologize to them.

Thank you for hearing me.

Mr. STUDDS. You are surrounded by good friends, only one of whom, however, could probably quote himself 33 years ago on this matter.

Mr. Dingell, I understand that you must go, with other obligations. We deeply appreciate your history and your involvement in these statutes. If we have any questions as to the original intent of Congress, we will come to you. Not the original Congress, but the original intent.

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. STUDDS. Thank you so much.

Senator Graham, we welcome you. We salute you for your leadership here. We note that your bill has cleared the Committee in the Senate. And we—with enormous trepidation—attempt to explain to a Member of your institution what those lights mean.

We realize they probably will be about as effective on a Member of the Senate as they were on the Chairman who has preceded you. They are just a little hint.

STATEMENT OF HON. BOB GRAHAM, A UNITED STATES SENATOR FROM THE STATE OF FLORIDA

Senator GRAHAM. Mr. Chairman, in 1959, I was an intern for Congressman Dante Fascell. He taught me what the lights meant. If they mean the same as they did then, I understand.

Mr. STUDDS. I appreciate that. I want you to know that in return, we have decided not to ask all seven to stand and raise your right arm.

Welcome.

Senator GRAHAM. Thank you, Mr. Chairman.

Mr. Chairman, I wish to thank you and the members for holding this hearing today on H.R. 833. I also wish to thank my good friends, Congressmen Gibbons and Congressman Synar, and the other sponsors of this important legislation. I am the sponsor of the companion legislation which has been reported favorably by the Senate Committee on Environment and Public Works.

I am optimistic, verging on confident that the Senate will approve this legislation, and am therefore very encouraged by and supportive of the action that you are taking to move the legislation forward in the House of Representatives.

Mr. Chairman, I believe this to be one of the most important pieces of conservation legislation that we will address in this Congress. The National Wildlife Refuge System is the only Federal sys-

tem dedicated to the conservation of fish and wildlife. It is the largest collection of land for this purpose on the earth.

The first refuge was established by President Theodore Roosevelt in 1903 on Pelican Island in Florida. Since then, the Refuge System has grown to 500 separate refuges located in every State. Refuges range in size from a few acres to almost 20 million acres. Unlike the national parks, national forests, and the Bureau of Land Management lands, the National Wildlife Refuge System lacks a truly organic act.

As Congressman Dingell stated, in 1966 the Congress enacted comprehensive legislation which established a single Wildlife Refuge System. It did not provide that system with a clear mission or statement of purposes. Furthermore, unlike the other public lands system, there is no requirement that a system-wide plan be developed for the Refuge System. Nor is there a requirement that plans be developed for individual refuges.

In addition, there have been a growing number of problems with harmful uses on refuges within the system. There have been numerous studies by the General Accounting Office and the Fish and Wildlife Service that show that harmful activities are occurring on 60 percent of our refuges.

Our refuge managers do not have a clear standard or set of procedures for making determinations for whether a given use is compatible with the refuge. Our legislation attempts to address each of these problems. It would establish a clear mission and purpose for the system. It would require a system-wide plan and provide for conservation plans for each refuge. It would establish a clear compatibility standard and set forth compatibility procedures. In this way, this legislation amends the 1966 Act to fill in those pieces which were missing.

Last summer, the Senate Committee on Environment and Public Works held a hearing similar to that which you are holding today. We heard from many of the same witnesses who represent a wide variety of interests. At that hearing they raised a number of concerns with the bill. We began the process of addressing them.

In response to concerns of the Fish and Wildlife Service, for example, we have streamlined some of the Act's procedural and planning requirements. To address concerns of State fish and wildlife agencies, we have also reduced some of the planning burdens on refuge managers and recognized the important role of the States in conservation of fish and wildlife.

For organizations concerned about harmful uses on refuges, we have articulated a clear mission for the system and a statement of purposes. We have clarified a set of procedures for making compatibility determinations that include principles of sound science and provide for public comment. We asked the Office of Management and Budget to resolve disputes about the use of refuges by other Federal agencies, and to make a recommendation to us. We have incorporated that recommendation.

And finally, we have addressed an issue of recreational hunting and fishing on refuges, which is an issue of importance to many organizations and Members of Congress who are concerned about hunting and fishing.

Under the leadership of Congressman Dingell, Congress enacted the Refuge Recreation Act in 1962. That act recognized the growing public use of refuge land for recreational purposes far beyond traditional hunting and fishing that were occurring on many refuges. That act addressed the need to assure that those uses would be compatible with the major purposes of the refuge. The act also required that adequate funding be provided for some public recreational uses such as boat ramps, parking lots, and camping facilities.

Mr. Chairman, I, too, am a hunter. I understand the desire of those who are responsible hunters and recreational fishermen to continue to enjoy access to wildlife refuges. I agree with them that hunting and fishing have not generally been the problem. And they agree that hunting and fishing are not appropriate on all refuges. Rather, uses such as jet-skiing and off-road vehicles have created enormous stress on many refuges.

On the other hand, there are groups who believe that no hunting or fishing should take place on refuges. We have attempted in the Senate legislation to strike a balance between those who would encourage more hunting and fishing and those who would ban it. Consequently, our bill recognizes hunting and fishing as appropriate uses of many refuges where compatible with the purposes of the refuge and the system.

I realize that some of these groups want a few additional changes to give them the assurance that the interest of their members will be protected. And I have pledged to continue to work with them.

Frankly, given the significant progress we have made on these very tough issues, Mr. Chairman, I have every confidence that the remaining concerns can be addressed.

I particularly want to thank you and Congressmen Gibbons and Synar for the leadership that you have shown on this issue. I am grateful to see Congressman Dingell continues to show his strong support for the Refuge System.

Mr. Chairman, this is the time for legislation. These bills have been before the Congress for many years. I believe that we can and must act for the benefit of future generations who will be able to enjoy fish and wildlife because of the actions that have been taken in the past and the actions that we should take this year.

I look forward to working with the Subcommittee in this effort, and thank you and the Subcommittee members for allowing me this opportunity to testify.

Mr. STUDDS. Thank you, Senator. Thank you very much for your leadership.

If you are able to stay, what I intend to do is to hear the entire panel, then if there are questions for our colleagues, we can turn to those.

Senator GRAHAM. Mr. Chairman, I appreciate that generous offer. I regret that I must return for some action on the Senate Floor.

Mr. STUDDS. With the indulgence of all of our Members, could you take one question from our fellow colleague from Alaska?

Senator GRAHAM. Yes.

Mr. STUDDS. Who will now demonstrate that in this, as in all matters, Alaska is unique.

Mr. YOUNG. Senator, I welcome your testimony, but I would like to remind all of you at the panel that we have more refuge land than any other—all the rest of the United States put together. In fact, it is bigger than most of the States in the Union. When they became refuge lands, there was definite understanding that there would be a continued activity and the compatibility test would not apply.

Now, Senator, I am going to ask you the question, number one, would you consider exempting Alaska from this provision? Or number two, would you support legislation or wording of legislation that hunting and fishing are recognized as a prime use of refuge lands?

Senator GRAHAM. Mr. Congressman, in the legislation that passed the Senate, we specifically recognize the legislative provisions that relate to refuge land in the State of Alaska and state that nothing in this act is intended to alter that status.

Mr. YOUNG. Now, two words. I notice in your testimony, compatibility. Would you object to us defining the word compatibility? Because what I am concerned with, in my area, I have a tremendous amount of people that provide their livelihoods on those lands, one way or the other, with the understanding then they supported the refuge designation because of that.

Would you support language in there that compatibility would be spelled out and it wouldn't be left to the discretion of a park or a—excuse me, I have so many parks, it is hard to define them. Or an individual manager of that region, or, in fact, a director?

Senator GRAHAM. The basic concept of compatibility is that through the process of the system-wide plans and the individual refuge plans, that there shall be the purposes of the system to work as an integrated whole, and the individual refuges will be determined, and then subsequent uses would be evaluated against that standard of the plan.

Mr. YOUNG. You still haven't answered my question.

My problem is I don't trust the Agency. I don't care what administration it is or who is the director. The Agency has so much discretion, what will be compatible to one would not be compatible to another. I think the compatibility standard has to be laid out.

I happen to agree with you, by the way, on some of the things that have taken place on the refuge lands. But I suggest respectfully that we write this so that refuges for these areas and people who supported it aren't denied their right.

I will bring it right out in the open. My trapping is done in my State by my people in the most poverty-stricken area on refuge lands. They support the refuge. They have done it for hundreds of years prior to this Agency or this Committee or anybody else.

Now, maybe the director or someone else says this is not compatible because some tourist from New York wants to go see this animal at a certain time. Now that is depriving individuals' rights to take and use that refuge as he thought he was going to be able to use it when it was enacted into law.

Senator GRAHAM. First, Mr. Congressman, we, as I stated, defer to the specific Alaska Act as it relates to refuges in Alaska.

Mr. YOUNG. Would you object——

Senator GRAHAM. But let me use your example in a State that I understand well, my own. We had some of the earliest refuges in the system, including number one, Pelican Island. The same standards of what was a compatible use in 1903 in the circumstances of 1994, are frequently incompatible.

As an example, one of the refuges in the Florida Keys was established for purposes of protecting an endangered wildlife, the frigate bird. Activities such as recreational and commercial fishing, which at the time the refuge were established were at a level of intensity that was compatible with the protection of that bird, now years later have risen to the point that those activities had created an environment in which the bird could not continue to effectively function and reproduce. And so some restriction has to be placed on those uses in order to accomplish the purpose for which the refuge was acquired in the first place, which was the protection of that particular species.

Now, I don't think we can write a single standard that will be applicable to all hundreds of refuges in this country and fixed in time that will be immutable to changes in external circumstances, and can accomplish the objective of the diversity of our refuges. We attempt to do this through the process of requiring a plan with standards for each refuge, as well as a system-wide plan, that that plan is developed in a very public setting in which there is opportunity for all interests to be represented.

Mr. YOUNG. Senator, I am running out of time. But, Senator, I suggest to you that we are going to make sure when this bill gets out of this Committee, there are going to be some definitions, because hunting and fishing and trapping on refuges are vital to the refuge itself. It is what maintains those refuges. Not the guy in New York, not the guy in Miami. This is what finances them, that is where the support comes from. Somewhere along the line, we are going to strengthen that provision, recognize the important role in these provisions.

And, Mr. Chairman, I know that Mr. Gibbons has to leave.

Thank you.

Mr. STUDDS. Senator, we thank you.

We would just like you to have a little flavor of our environment here.

Senator GRAHAM. Good, thank you very much, Mr. Chairman.

Mr. STUDDS. Those activities weren't going on before Mr. Dingell, were they?

Mr. YOUNG. By the way, Mr. Dingell does not support this legislation, I want you to know that. He may support some legislation, but he was very instrumental in making sure that my people are, in fact, recognized. Now, you may say it is done in the Senate, but with all due respect, Mr. Chairman, I have seen what this body and agencies do to our people and my State, saying we interpret it this way. It is our opinion this is what should be done; not what the law says.

Mr. STUDDS. The gentleman has expired. Now, we will go to our five colleagues. And in this case, we will go as we always do with great respect, in order of seniority in the institution. And we will attempt to urge you, if you can, to pay some attention to the lights.

The author of the House bill, the distinguished Chairman of the Committee of Ways and Means, our colleague from Florida who has been here many times on behalf of a variety of critters, Sam, welcome.

STATEMENT OF HON. SAM GIBBONS, A U.S. REPRESENTATIVE FROM FLORIDA

Mr. GIBBONS. Thank you very much, Mr. Chairman, members of the Committee.

My prepared testimony would be very repetitious of the Senator's testimony. I am a cosponsor of his bill here in the House. I introduced it a number of years ago and continue to push it because I think overall the Refuge System needs a basic organic law to set forth what its mission is. Furthermore, I believe there needs to be individual adaptation of each of the refuges to the situation that it finds itself in.

I would like to give you a little sequel to the story about the first refuge having been established in Florida. It was created, as you know, to protect the egret from the slaughter that was going on then, in order to produce plumage for hats and for fans and other fashion items. When I grew up, the egret was not in existence in Florida. In contrast, I saw my last egret about two weeks ago as I was entering a restaurant on the barrier island on which I live.

The egret had poised itself right at the front door of the restaurant and was tracking guests as they left the restaurant trying to mooch a little food. My, how times have changed. You don't see many egrets in Florida and not everyone is going to find an egret outside of a barrier island restaurant, but they are coming back slowly and we are making progress.

I use that little story to illustrate the point that there are compatible uses that can be worked out on an individual basis between the sanctuaries and the public. But, there are encroaching manifestations of mankind that are very incompatible and need some severe regulations.

For instance, the water ski has developed to such an extent that it is more hazardous to your health in Florida than mosquitoes, and it is very hazardous to the development of a wildlife sanctuary. In some places you can have water skis. You wouldn't scare many polar bears with water skis, but you do scare a lot of birds. Similarly, in some places it is fine to fish. But if you have ever hooked a bird on your fishing line as I have, unfortunately, you know this kind of sports activity is not compatible with the development of certain wildlife refuges.

So I think that while in the 1960's a good job was done on establishing the refuge legislation, we need to go a little further now. The bill Senator Graham and I have introduced is not a radical bill. It simply calls for the creation of a basic fundamental act so we will all understand what these refuges are for.

It also requires the coordinated planning and development of these refuges, including putting restrictions on them, particularly where migratory animals are involved. Plans should recognize each refuge's unique characteristics and, when making compatibility de-

terminations, disallow any secondary use that will destroy or degrade the refuge.

That is my testimony, Mr. Chairman. I conclude here.

Mr. STUDDS. Thank you very much, sir.

[The prepared statement of Mr. Gibbons follows:]

STATEMENT OF HON. SAM GIBBONS, A U.S. REPRESENTATIVE FROM FLORIDA

Mr. Chairman and members of the Subcommittee:

Thank you for this opportunity to testify before you this morning on the National Wildlife Refuge System. I am neither a wildlife specialist nor a refuge system expert. Like millions of Americans, I simply enjoy refuge lands and it's on that basis that I sit before you today.

Ninety-one years ago the great conservationist, President Theodore Roosevelt, established our Nation's first national wildlife refuge on tiny Pelican Island in my home State of Florida. Wading bird populations were being ravaged as millions of birds were slaughtered for their decorative plumes, then fashionable in ladies' hats. Indeed, around the country an "anything goes" philosophy allowed nearly unlimited harvest of our wildlife. Through habitat protection President Roosevelt envisioned a system of lands set aside for imperiled fish and wildlife to salute and conserve our natural heritage. Under Roosevelt's Administration, conservation flourished.

Sadly, the System started by President Roosevelt is under siege. While it's not the fashion industry preying upon Florida's wading birds, severe pressures on their populations remain. Frigate birds abandoned their rookeries in Key West and Great White Heron National Wildlife Refuges because of jet skiers, water skiers, and power boaters. The problem is not limited to Florida. The problem is epidemic as refuges nationwide are being plundered. Set aside as safe havens for wildlife, oftentimes refuges become recreational playgrounds, military practice ranges, and economic enterprises. How has this crisis come to pass?

It's surprising to me that, after all these years, there really is no clear statement of what the National Wildlife Refuge System should be. The legislation I have sponsored with Senator Bob Graham (H.R. 833/S. 823) is crucial because it finally articulates that mission. This is not a radical idea, I agree, but it is one long overdue.

My testimony this morning is motivated by one belief; wildlife comes first on refuges. That basic principle should guide System management. After all, that's what President Roosevelt intended. Regrettably, we are straying too far and too often from that purpose. Unlike the National Park Service, the U.S. Forest Service, and the Bureau of Land Management, the National Wildlife Refuge System has no "organic" statute to define and direct it. Without that guidance, refuge managers are handicapped, not having the direction and tools essential for controlling uses of and otherwise managing refuges. Abuse has become commonplace and wildlife protection has suffered miserably. Hopefully, we can all agree that wildlife should be our primary concern on these lands.

Unfortunately, the past few decades have witnessed the subordination of wildlife to other interests on many refuge lands. For over 25 years the Government has documented the degradation of the System by recreational, economic, and military activities. A series of investigations dating back to 1968 have sounded the alarm that the health and integrity of the System are at risk. A 1989 GAO report found uses harmful to wildlife resources are allowed on almost 60 per cent of refuges. Similarly, the U.S. Fish and Wildlife Service in 1991 found at least one harmful activity occurred on 63 percent of the Nation's refuges.

This crisis can be attributed largely to the absence of a compatibility determination process. Recognizing the need for one law to outline the administration of the refuges, Congressman John Dingell championed passage of the landmark 1966 National Wildlife Refuge System Administration Act. This measure consolidating the System authorized secondary uses of refuges *only after* found to be compatible with the refuge purpose. A process was not outlined nor was compatibility defined, however. The Graham/Gibbons bill builds on the 1966 Act and produces a framework to formally determine compatibility, emboldening unit managers with strong directions and tools to combat local pressures for secondary uses of refuges.

On this issue of secondary uses, I want to emphasize that the intent of my bill is not to outlaw activities other than wildlife protection on refuges. In fact, the legislation explicitly reaffirms their continuation when compatible. Where secondary activities don't interfere with the "wildlife first" principle, a refuge can support a variety of activities. These include much-loved recreational activities like hunting, fishing, and skiing, on units where congruent with that refuge's purpose. The refuge

lands are precious jewels, to be sure, but they should be enjoyed rather than be admired from afar.

A lack of planning has also contributed to the sad condition of refuges. Planning provides direction and consistency and ensures the purposes of the System and individual refuges are fulfilled. H.R. 833/S. 823 requires "master plans" for both the System as a whole and for each unit singularly, paralleling similar requirements for National Forest and Bureau of Land Management lands. (The National Park Service, too, has a planning mechanism for future land use and acquisition.) The need for planning should not be deemphasized.

System damage, too, has occurred because refuge lands have not received the attention given other Federal lands. The Refuge System needs to be a priority. The Graham/Gibbons measure assigns affirmative duties to the Secretary of the Interior, as steward of the System, to ensure refuge purposes are followed and System needs are met.

Furthermore, the bill recognizes that refuge purposes sometimes lose out when pitted against the interests and activities of other Federal agencies. The importance of the Fish and Wildlife Service's mission and the need for other Federal agencies to avoid adverse impacts to refuge resources should be recognized in law to enhance the Service's ability to work with other agencies with their own missions and to protect refuge resources. H.R. 833/S. 823 attempts to elevate System consideration in the face of harmful Federal activities.

President Roosevelt's legacy is a rich and diverse system of lands stretching from Alaska to the Florida keys. Habitat has provided for more than 700 species of birds, more than 1,000 mammals, reptiles, and amphibians, and untold numbers of fish and plants. The Refuge System offers the only set of public lands set aside primarily to conserve fish and wildlife populations and habitat. His legacy is my grandchildren's inheritance. But that inheritance is imperiled. A legislative remedy to the System's ills is long overdue.

The legislation under scrutiny today is the result of long, honest negotiations spearheaded by Senator Graham. All interested parties were invited to the negotiating table. From those talks, the Senate Committee on Environment and Public Works produced this consensus measure. It is not extreme. It simply builds on many of the recognized themes and objectives of earlier measures.

I am heartened, Mr. Chairman, by your continued interest in the Refuge System and look forward to working with you in the days ahead to improve its management.

STATEMENT OF HON. MIKE SYNAR, A U.S. REPRESENTATIVE FROM OKLAHOMA

Mr. STUDDS. Next, our colleague from Oklahoma, coauthor of the pending House bill, Mike Synar.

Mike, welcome.

Mr. SYNAR. Thank you, Mr. Studds.

Let me just say that 5 years ago you and I chaired joint hearings on the subject, and the Gibbons-Synar legislation evolved from that hearing.

I want to compliment you for your continued interest. I want to thank my colleagues, Mr. Gibbons and Senator Graham, for their leadership in this area. In particular, I want to commend Congressman Dingell for his pioneering work and vision on this subject.

Here is the issue, very simply. Through the growth of the system over the long history, there are four problems: First, we still lack the basic features of an overall mission statement. Second, we lack the formal means of evaluating the threats from incompatible secondary uses. Third, we lack system-wide, refuge-specific planning. And fourth, we lack formal means for dealing with other Federal agencies whose activities may harm refuge resources.

The Gibbons-Synar bill tries to fill these regulatory gaps and equip our National Wildlife Refuge System to be proactive in the 21st Century. We do it by doing four things: First, we clarify sec-

ondary and compatible uses. Second, we require both refuge and system-specific planning. Third, we reaffirm that hunting has a place in refuge management and leave it as it exists in law today. And fourth, we give the Fish and Wildlife Service some help in dealing with other Federal agencies. It is that simple. It is very clear and straightforward.

I ask for your sincere and studied consideration.

Mr. STUDDS. Thank you, Mike.

[The statement of Mr. Synar follows:]

STATEMENT OF HON. MIKE SYNAR, A U.S. REPRESENTATIVE FROM OKLAHOMA

Mr. Chairman, thank you for scheduling today's hearing on bills to reform the administration of the National Wildlife Refuge System. Five years ago it was my pleasure to join you in chairing the joint hearing which gave rise to the Gibbons-Synar bill under consideration today.

I am also pleased to share the panel with my distinguished chairman, John Dingell, the author of two of the landmark laws affecting wildlife refuges, the Refuge Recreation Act of 1962 and the Refuge Administration Act of 1966.

The House and Senate refuge reform bills which you are considering today are a natural outgrowth of Chairman Dingell's pioneering work and complement his vision of an effective and coordinated system for protecting the diversity of America's wildlife resources.

When President Theodore Roosevelt established the first wildlife refuge in 1903 to protect Florida's brown pelican, heron, and egret, I'm sure he had no idea that 90 years later the system he initiated would have grown to 500 refuges, comprising over 90 million acres in all 50 States—the largest area set aside by any country devoted primarily to wildlife.

Despite the growth of the System and its long history, it still lacks such basic features as an overall mission statement; a formal means of evaluating threats from incompatible, secondary uses; system-wide and refuge-specific planning; and formal means for dealing with other agencies whose activities may harm refuge resources.

The Gibbons-Synar bill and its Senate counterpart, introduced by Senator Graham, fill in these critical regulatory gaps and equip the National Wildlife Refuge System to proactively enter the 21st century.

The National Wildlife Refuge System, alone of all the major Federal land management systems, lacks an organic act which sets out its purposes and management philosophy. In addition, Congress has not spoken on our expectations as to how they should manage System resources. As a result, the System is ill-equipped to deal with new problems, to prioritize its resources or to negotiate with other Federal agencies whose own missions are both clearer and more concrete.

On June 30, 1994, the Senate reported out Senator Graham's bill, S. 823. That bill as introduced was identical to the Gibbons-Synar bill, H.R. 833, but has had the benefit of months of negotiations among Federal and State wildlife agencies, environmental and sportsmen's groups and Members' offices. While not perfect, I urge this Committee to use it as the basis for markup.

Since time remaining in this Congress is short, the House will benefit from using a legislative vehicle where many of the agreements crucial for passage have already been made.

The bills go a long way toward clarifying the existing Fish and Wildlife Service policy on secondary or "compatible" uses. Under current law, in order to approve secondary uses of refuges, from grazing to water skiing to military exercises, the Fish and Wildlife Service must first find them compatible with the primary wildlife conservation purposes for which refuges are established.

With recreational activities, the Fish and Wildlife Service must also make a yearly finding that funds are available to administer the recreational uses.

Unfortunately, blue ribbon panels, dating back at least as far as the Leopold Commission in 1968, have identified threats to the refuge system from incompatible secondary uses. Mr. Chairman, as you are well aware, the General Accounting Office report which we jointly released at our 1989 hearing found that 60 percent of our refuges have at least one harmful secondary use.

Despite numerous reports and hearings identifying this problem, little has been done to fix the System. Even the overall System Plan, initially promised by the Fish and Wildlife Service in 1976, has never been issued in final form, despite a lawsuit by environmental groups.

The Refuge System is also the only Federal land management system which lacks an overall plan or planning process to govern land use decisions. Our bill requires both refuge- and system-specific planning.

Our bill tackles compatibility determinations head-on. We put all determinations on the same uniform and predictable footing and open the process up to public scrutiny for the first time. Sunshine and regular procedures will help everyone who deals with the refuge system and should reduce the kinds of resource conflicts which have led to legal challenges to Fish and Wildlife Service decisions.

Mr. Chairman, I want to emphasize that we do *not* change existing laws relating to hunting. Instead, we reaffirm that hunting has a place in refuge management, whether for thinning herds or flocks or dispersing concentrations of wildlife which might otherwise succumb to disease, as well as for sport.

Sportsmen and sportswomen have been some of the greatest supporters of our Refuge System and funds raised from Federal duck stamp sales have helped purchase about 1.8 million acres of Federal refuges, or 1.8 percent of the System. Other duck stamp funds have been used in the past for System administration.

Finally, the bill deals with conflicts between the Fish and Wildlife Service and other Federal agencies with regard to competing demands on the Refuge System. In the past, the Refuge System has been almost defenseless against threats to its domain from its sister agencies. For example, in Mississippi in 1986, the Corps of Engineers built a drainage canal in the Yazoo Wildlife Refuge with almost no notice to the Refuge manager. As a result, the Refuge was drained of much of its water just before the waterfowl nesting season.

To remedy these kinds of conflicts, the bills give the Fish and Wildlife Service some of the help it needs in dealing with other Federal agencies. While the Senate bill requires other Federal agencies to minimize or mitigate harm they cause to the refuges, I urge my House colleagues to strengthen this provision of the bill to emphasize *preventing* harm in the first place.

Thank you for giving me this opportunity to testify on these reform bills. I'm sure we can work together to produce a bill we can all support and which can be enacted this Congress.

STATEMENT OF HON. STEVE GUNDERSON, A U.S. REPRESENTATIVE FROM WISCONSIN

Mr. STUDDS. Next, our colleague from Wisconsin, Congressman Steve Gunderson.

Steve, welcome.

Mr. GUNDERSON. Thank you, Mr. Chairman, and I will also try to be brief.

I would ask unanimous consent that a longer statement might be made a part of the record.

Mr. STUDDS. Without objection, all written statements will appear in their entirety.

Mr. GUNDERSON. Mr. Chairman, and members, I come to you from a unique region of the country and a unique refuge. And I guess my purpose in being here is to emphasize the diversity of refuges and the need to articulate a flexibility and a response to respond to that diversity. The Upper Mississippi River system is the only system in the country which has a dual congressional mandate of a National Fish and Wildlife Refuge and a commercial waterway with a nine-foot navigation channel. It runs intermittently along the east and west banks of the river from Wabasha, Minnesota, to Alton, Illinois. It includes 200,000 acres of land managed by Fish and Wildlife, although some of it is actually owned by the Corps of Engineers. It provides critical breeding, nesting and migratory habitat for a wide variety of fish and wildlife species. Over 20 percent of the North American ducks use the Upper Mississippi as a feeding and nesting ground during migration.

The upper river and refuge are used extensively for unparalleled recreation, both compatible recreation such as hunting, trapping,

fishing, commercial and recreational fishing, I might mention, bird watching, cross-country skiing, et cetera, and other recreation in designated areas such as picnicking, horseback riding, power-boating and even in some areas, water-skiing. Recreation is important to the Upper Mississippi River.

A recent Corps of Engineers study estimated that in 1990 recreational visitors made 12 million daily visits to the upper river, adding over $1.2 billion in economic benefits and supporting over 18,000 jobs. The importance of maintaining a balance is essential and the legislation that will be passed by this Subcommittee should maintain a balance between legitimate management improvements and local involvement.

Again, Mr. Chairman, the example would be the Upper Mississippi which has been the center of much controversy over balancing these diverse interests of environment, recreation and navigation in the past. People who live on the river are very involved in the management of the river and of the refuge. They want to be able to continue to contribute to the management needs.

For example, sporting groups in Wisconsin have voluntarily cooperated with the Fish and Wildlife Service and the Wisconsin Department of Natural Resources to create and begin voluntary avoidance areas (areas left alone during hunting season, to allow both the habitat and certain species to prosper). Balance means giving the State and local governments and these recreational interests the ability to be heard on the local level when management decisions are made at the Federal level.

We created in the Upper Mississippi River area and in this refuge, something in 1986 that I guess most of my colleagues voted for at that time, called the Environmental Management Program. It was formulated to provide a balance among the three interests I have articulated, without unduly curtailing any of the activities.

It consists of three parts: a habitat reconstruction program, a long-term monitoring program, and a spatial data, computer data base. It is this EMP which has been the foundation of bringing about a proper management of these diverse resources in a way that has been, frankly, recommended and praised by environmentalists, by navigation and recreational people.

Mr. Chairman, I have two specific concerns or requests about the legislation in front of you. My first concern is that we make explicit the process by which existing and future recreational uses will be considered, monitored and altered, if necessary. Setting up a system-wide management structure and individual refuge plans could remove the current informal interaction between local residents and refuge managers.

The legislation provides for a refuge manager, the regional Fish and Wildlife officials, and the Washington staff to make compatibility determinations. My question is this. Despite the provision that the public would have an opportunity to comment, how are local groups going to know that a rule has been published in the **Federal Register**?

The bill should provide for solicitation of public comments during at least one mandated local public hearing on the proposal. State wildlife managers and local governments should be an automatic part of a mandatory consultation process in developing whatever

determinations are made. Following these suggestions would ensure that the Fish and Wildlife gains both a local perspective on the proposed management and probably also the local support which is so essential to make it work.

My second concern deals with funding. The legislation provides for a review of compatibility within 5 years. All incompatible uses will be discontinued absent special circumstances. Judging from the review process stemming from the Wilderness Society lawsuit, which I think most of us in this room are familiar with, this review process will take significant time and divert resources from refuge management.

The Upper Mississippi refuge started out understaffed. During the past year, I am well aware that it has struggled trying to keep up. Could I suggest then that perhaps those refuges which have been reviewed during the compliance with the Wilderness Society settlement, could be considered compatible to save scarce resources?

So, Mr. Chairman, I think that there are a couple of changes that can be made that will significantly improve this legislation, and make it the kind of partnership and the kind of success I think everyone in this room seeks it to be.

Thank you very much.

Mr. STUDDS. Your winters are not sufficiently harsh for people to read the **Federal Register**?

Mr. GUNDERSON. Well they are harsh, but not that harsh..

Mr. STUDDS. Thank you.

[The statement of Mr. Gunderson follows:]

STATEMENT OF HON. STEVE GUNDERSON, A U.S. REPRESENTATIVE FROM WISCONSIN

Thank you, Mr. Chairman, Mr. Saxton, and members of the Subcommittee, for allowing me to testify before you today on a matter that is very important to me and outdoor enthusiasts in my district: the future of our fish and wildlife refuges and the Refuge System. I am here to urge the Subcommittee to maintain balance between compatible recreation and the need to sustain efficient refuge management in any legislation it considers.

As you know, I represent western Wisconsin, a beautiful area in the Midwest known for its rolling hills, fertile soil, and woodlands. It is also known as the home of a large stretch of the Upper Mississippi River System.

The Upper Mississippi River Refuge

The Upper Mississippi is unique in many respects. It is the only river system in the country which has a duel congressional mandate as a national fish and wildlife refuge *and* a nine-foot commercial navigation channel. In addition, the Upper Mississippi is a center for unparalleled recreational opportunities. Residents and non-residents alike use the river and the refuge for hunting, trapping, fishing (both commercial and recreational), bird watching, picnicking, boating, and water skiing. A recent Army Corps of Engineers study estimated that in 1990, recreationalists made 12 million daily visits, adding over $1.2 billion nationally and supporting over 18,000 jobs.

The Upper Mississippi River National Wildlife and Fish Refuge is the center of recreational activity on the river. The Refuge runs intermittently along both sides of the Upper Mississippi River for 260 miles from Wabasha, Minnesota, through Wisconsin and Iowa to Alton, Illinois—nearly 200,000 acres of managed land. The Refuge provides a critical breeding, nesting and migratory habitat for a wide variety of fish and wildlife species. In fact, over 20 percent of North American ducks use the Upper Mississippi as a feeding and nesting ground during migration. Indeed, it is the Refuge that gives the Upper Mississippi its unique mix of beauty and utility.

Increase Input from Local Residents and the States

The Upper Mississippi has been the center of much controversy between those promoting three diverse interests: the environment, navigation, and recreation. I have helped to craft compromises among these interests, most notably in response to the Army Corps of Engineers' expansion of the lock and dam system. Over the past 14 years, I have learned that in order to avoid controversy, Congress must seek to achieve balance among environmental, recreational, and navigational interests on the river. I believe that this concept applies to efforts to reform our refuge system as well. Balance does not necessarily mean compromising the established purposes of a refuge. It means giving State and local governments and recreational interests the ability to be heard on a local level.

The legislation before the Subcommittee, H.R. 833, seeks to reform the National Wildlife Refuge System by making explicit the process by which existing and future recreational uses will be considered and acted upon. On one hand, I applaud the initiative to take control of the Refuge System and to preserve it for the future. On the other hand, my constituents and I are concerned that the legislation before the Subcommittee would slowly remove the interaction which occurs among the refuge manager, the State, and the outdoor enthusiasts. The Upper Mississippi Refuge has traditionally been a very public-oriented refuge, and my constituents wish to continue their activities on the refuge, most of which are compatible with traditional management techniques. Outdoor enthusiasts in western Wisconsin have been known to actively support techniques such as voluntary avoidance areas—areas which the Service and the State of Wisconsin suggest avoiding to allow habitat development of wildlife. Nonetheless, this legislation appears to threaten the focus of the refuge through bureaucratic maneuvering.

Under the bill, the Director of the Fish and Wildlife Service (Service) is required to certify that the uses on each refuge are consistent with the original purposes for which the refuges were established. To be sure, this step is compatible with the Wildlife Recreation Act, which requires that a use be compatible with the Refuge purpose and that sufficient funds be available to support these uses. However, I share my constituents' skepticism that determinations under this legislation would be made by the Refuge managers in concert with support from the regional official and Service headquarters. The public could be left completely out of the process.

The legislation provides for public comment on proposed changes by the Service under an administrative procedure. Although the bill is not clear, it appears that the most input my constituents would have is by submitting comments to a Washington bureaucrat. It would be helpful, especially as applied to establishment and review of Refuge management plans, if the Service would actively solicit comments from the affected States and hold at least one local hearing with the Refuge management staff present. This would ensure not only that the users of the Refuge are understood, but also that the perspective of the Refuge management staff is communicated clearly. I believe that if Refuge management was centered at the local level, decisions would be made with full knowledge of the facts in an effort to balance all interests. Therefore, I suggest that the Subcommittee follow the action taken in the Senate to provide for at least a listing of the issues presented, and, if possible, local hearings.

Funding Presents a Difficult Management Issue

The second issue that I would like to consider today, Mr. Chairman, is funding for the review of compatibility. Again, I do not wish to obstruct the process of improving our National Refuge System, but I feel compelled to mention certain facts which my constituents have noted on the Upper Mississippi Refuge.

The legislation provides that within 5 years, all issues will be reviewed and those determined incompatible will be discontinued, absent special circumstances. The Upper Mississippi River Refuge was one of those affected by the settlement of the lawsuit between the Service and the Wilderness Society. I do not wish to comment on the settlement, but the fact remains that in the last year, much time and many resources have been consumed to determine which uses are compatible and which are not. Meanwhile, management of the Refuge has suffered. In addition, the Upper Mississippi Refuge is presently severely understaffed. I hope that the Subcommittee would include in the legislation a provision to account for the determinations that have been made on all refuges affected by the lawsuit settlement. This adjustment would save government funds and allow those Refuge managers currently reviewing Refuge uses to focus scarce Federal dollars on management projects.

Mr. Chairman, I am also concerned that the legislation as currently written will allow the Service to discontinue a given use because the Service does not have sufficient information to make a compatibility determination. This provision could easily create a catch-22 for many uses—even those that are generally compatible with the

management purpose—if there is no available data on the use *and* there are insufficient funds to generate the data. I believe that there are some nonwildlife-related recreational activities which deserve to be included in some areas on the Refuge—such as picnicking—that would otherwise be excluded. I encourage the Committee to include safeguards in the legislation to prevent such problems from occurring.

Conclusion

Mr. Chairman, the Upper Mississippi Refuge is but one of a large collection of refuges in the national system. Its unique location and attributes require that the Subcommittee consider a flexible management solution, however. It is with this background I encourage you to consider allowing additional State and local comments. Supporting greater cooperation will ensure that all interests are represented and promote a balanced management plan. Finally, I encourage the Subcommittee to carefully consider the fiscal demands which this legislation will place on individual refuges and refuge managers.

Thank you, Mr. Chairman.

STATEMENT OF HON. BILL BREWSTER, A U.S. REPRESENTATIVE FROM OKLAHOMA

Mr. STUDDS. Next, our colleague from Oklahoma, Congressman Brewster. Welcome.

Mr. BREWSTER. Thank you, Mr. Chairman.

I certainly thank you for the opportunity to testify before your Committee today. I appreciate the opportunity to work with you as we have in the recent past on hunting and angling issues.

During my testimony today, I would like to wear two different hats; one as cochairman of the Congressional Sportsmen's Caucus, and one as a representative of a congressional district containing two national wildlife refuges. The Sportsmen's Caucus is a group of over 180 Members of Congress and 35 Senators with the common beliefs of preserving and promoting the traditional rights of American citizens to hunt, fish and pursue other outdoor activities, ensuring that American sportsmen have reasonable access to federally managed public lands to enjoy these outdoor pursuits, and supporting efforts to enhance multiple-use wildlife and habitat management.

As cochairman of the Caucus, I believe I can speak on behalf of the interests of millions of hunters, anglers and trappers in America. American sportsmen as a group are probably one of the most adamant supporters of national wildlife refuges and the purpose they serve. As Congress reauthorizes the National Wildlife Refuge System Management and Policy Act, the Caucus and American sportsmen wish to be a positive part of the process.

Whereas there are aspects of H.R. 833 that we find unacceptable, I would prefer to present my testimony in the form of requests on what we as a sporting community would like to see in the final legislation, rather than attacking what is currently outlined in H.R. 833.

The Sportsmen's Caucus would like to see continued access to these public lands for American sportsmen and general public. In Oklahoma, and I would venture to guess most non-Western States are in the same boat, there is very little public land. In most areas, these small pockets of public lands provide the only opportunity to fish or hunt to the non-landowning public. These areas provide excellent family-oriented recreational opportunities at little expense to the public, or for that matter, to the Government.

I realize you and every other member of this Committee recognizes the important role that hunting, fishing and trapping can play in wildlife management. These activities are proven scientifically-based wildlife management tools.

Members of the Caucus would like to see a reauthorization bill that continues to recognize these wildlife-oriented activities, not only as compatible activities, but as Chairman Dingell said before me, as primary or higher-ranked activities, above other nonwildlife-related activities. To portray these concerns on a more local level, I would like to relate to you some developments within a refuge in my district.

The Tishomingo National Wildlife Refuge has migratory, waterfowl wintering habitat as its primary purpose. As a result, there is almost no hunting allowed on this refuge, and we concur with that. However, it does contain excellent fishing habitat. Currently, fishing is allowed for only seven months out of the year, and we concur with that.

However, human activity should be kept to a minimum during the wintering period. This is why there is so little hunting allowed on the refuge. However, during the past few months, the refuge manager has proposed a new management plan that would prohibit any boating or fishing for three of the seven months currently allowed. It would also prohibit year-round access to about 40 percent of the refuge's waters, as well as place all sorts of restrictions on types of tackle and fishing equipment permitted.

Mr. Chairman, the local folks around there have fished this area for 50 years and it is some of the best crappie fishing in Oklahoma, in the times that there is no waterfowl within a thousand miles of the refuge. In essence, the refuge manager through his compatibility review is shutting down well over 50 percent of the fishing opportunities available on the refuge, even though there is no waterfowl there for most of the year.

By doing this, he is setting up a bureaucratic nightmare for local anglers in deciding what type of lure they can use or whether the jug on the end of their trout line is government-approved. As a side effect to these developments, the local community is beginning to view the presence of the refuge as a liability, not as an asset.

It has never been this way, Mr. Chairman, in the 50 years that it has been there. But the local community is rapidly giving up support. We cannot allow this to happen. If we lose the support of the local communities, we lose the ability to protect and conserve our wildlife resources in the future.

This legislation provides Congress with the opportunity to correct problems that have developed as a result of new regulations, court agreements and interpretations gone awry. I respectfully request of this Committee that during your markup process, you keep in mind the important contributions American sportsmen have given to the refuge system and wildlife conservation as a whole. I ask that you allow continued access to these lands.

We are not asking for any additional access. All we are talking about is continued access to what we have. I ask that you allow continued recognition of hunting, angling and trapping as acceptable uses, more importantly, as needed wildlife resource management tools.

I also ask that you draft this legislation in such a way that we retain support for the Refuge System by not only the outdoor sporting community, but the citizens who live near the refuges, those citizens whose economic well-being is dependent upon the continued access and use of these lands by American sportsmen.

Mr. Chairman, I once again thank you for the opportunity to be here. We pledge that we would like to work with you to make the refuge systems better for all of our citizens.

Thank you.

Mr. STUDDS. Thank you very much.

And our final witness on this panel of colleagues is the gentleman from Arkansas. Jay, welcome.

STATEMENT OF HON. JAY DICKEY, A U.S. REPRESENTATIVE FROM ARKANSAS

Mr. DICKEY. Thank you, Mr. Chairman. I want to thank you for the appearance. I am not so happy with the order of witnesses, but I guess it means that it is saving the best for last. Is that it?

Mr. STUDDS. All you got to do is stay healthy and outlive everyone.

Mr. DICKEY. I represent the southern district of Arkansas. I am here on behalf of the citizens who are crying out for attention. We have three refuges in our small district and another on the way, so we have a substantial commitment and investment in this problem.

I am not altogether in favor of this bill. The bad part is compatibility. It seems to be a court word, so that people have to go to court, people who do not have the money to do so but have to go to court or depend on the court interpretations.

There is too much control up here. It is away from people who are buying fishing and hunting licenses.

The good part is that there is public participation and that there is some reference to the people of America in the recipe so that they don't just see what is already cooked and have comment on that, but they can get involved in the early parts of the preparation.

It does need approval by Congress in some form. I don't know how that might work since I am inexperienced in these sorts of things, but I think it is important that Congress be a way that these people who are not landowners, who do not have a whole lot of money can be a part of the process.

What part does the public play? In my area of the State it is pretty heavy. Their investment is pretty heavy and I think it is all across the Nation. They invest time, money, land sites, equipment—a great percentage of their assets are wrapped up in this sort of activity. They take part in the conservation efforts and are quite proud of the progress we are all making in that regard.

What are the dividends? It is holding families together. It is fighting crime in that way. It is helping economies in a gigantic way in my part of the State. It is giving people in the urban areas an alternative way of living. They may not want to choose this way but at least we can say to the people of the urban areas, the rural areas offer this form of living and an economy that is based on this activity.

These areas cannot succeed without the public support. We have $155 million spending in one year on deer hunting alone. That is representing 4,940 jobs. Duck hunting is $31.2 million, spending for a thousand jobs in Arkansas. So you can see that it is very important that we have public support in a lot of different ways.

What to do? I think we should grandfather all the hunting and fishing activities we have right now. Just see that the water seeks its own level and it sought the proper level, and let's just recognize it as it is. And if you want to restrict the other areas and you can in the other activities, I think that is fine.

I think we ought to quit using maintenance dollars to purchase new refuge areas. What I mean is, if we keep buying more land we are going to divide the percent of the maintenance dollars and then we are going to allow the budget constraints to be used to furnish fodder for the agendas of people who don't want hunting and fishing at all. So our people want us to be more honest in our budget considerations and take care of the things that we have. Don't dilute the spending of the dollar by buying more land and then use it for restricting the activities.

I think those things are all that we want to be heard. And I want to thank you all for it. I want to thank you on behalf of those citizens of south Arkansas and those families who wanted me to come here and present this to you.

[The statement of Mr. Dickey follows:]

STATEMENT OF HON. JAY DICKEY, A U.S. REPRESENTATIVE FROM ARKANSAS

Mr. Chairman, thanks for the opportunity for me and other supporters of the recreational hunting and fishing tradition in America to appear before the Committee today regarding H.R. 833.

I am not convinced this "organic" legislation in its present form is needed to properly manage the nearly 500 national wildlife refuges across America. Each legislatively established refuge is different, with different primary conservation goals and recreational opportunities, including traditional hunting and fishing. The 1966 National Wildlife Refuge Administration Act (which this bill amends and strengthens) contains compatibility requirements, and allows the necessary flexibility by the Secretary and each refuge manager to prohibit activities that clearly are harmful to wildlife and wildlife habitat.

However, if the legislation does proceed through the Committee process, I urge the Committee to help improve it by including explicit provisions that address the importance of and compatibility of traditional hunting and fishing to wildlife conservation.

Recreational hunting and fishing, where now allowed in the refuge system, promotes and strengthens family bonds through outdoor recreation, and is, in fact, a passion of about 40 million American sportswomen and sportsmen and their families across the country. Recreational hunting and fishing at refuges and elsewhere helps to preserve our outdoor heritage and is a necessary tool for sound, effective, scientific-based refuge and wildlife management.

H.R. 833 requires a comprehensive planning process for the nationwide refuge system and comprehensive conservation planning requirements for each refuge. Although I do not support this bill in its present form, it seems to me the public involvement process requirements in the bill, which includes public participation and comment into the compatibility and planning process, is an improvement over the present situation where there is little public participation allowed in the decision-making process.

Therefore, in terms of my suggestions to improve this legislation, specific hunting and fishing compatibility provisions and acknowledgment of the benefits and financial contributions that flow from traditional refuge hunting and fishing—which in fact help to support the system—and the expanded formal public participation in the planning process, are among the crucial features that must be included in this bill if it advances.

Local, State, Federal Economic Benefits

Let me speak for a moment about the financial contributions of hunting and fishing to the refuge system as well as local, State, and Federal revenues. In Arkansas, we have seven national wildlife refuges where hunting and/or fishing is allowed to varying degrees in each. In the Fourth Congressional District of southern Arkansas, we have two of those refuges and part of a third. We are hoping to gain another in southwestern Arkansas if a proposed land exchange is successful.

One of the refuges in southern Arkansas, the 12,000-acre Overflow National Wildlife Refuge, was purchased entirely from the Migratory Bird Conservation Act Trust Fund, financed by Federal duck stamp fees paid by hunters and by wildlife import fees.

In addition, the Federal aid portion of the Sport Fish Restoration Act Trust Fund as amended (Dingell-Johnson/Wallop-Breaux) helps State game and fish departments to carry out hundreds of projects to enhance sport fisheries and sport fishing. It's important for everyone to understand the broad-base sources of revenue that finance this program. The sources include excise taxes on fishing rods, reels, lures, related fishing gear, and motor boat fuel. According to the Arkansas Game and Fish Commission, in fiscal 1994, Arkansas received $2.9 million of these Federal aid funds which was matched by 25 percent State money to use on in-state fisheries projects and activities.

According to the Fish and Wildlife Service, in 1992, the national purchase of hunting and fishing licenses totaled $879.7 million. In addition, annual excise taxes on hunting and fishing gear amounted to $356.7 million which the Fish and Wildlife Service distributes to the 50 States for fish and wildlife management. That totaled in 1992, over $1.2 billion invested in the environment for everything from fish-stocking to public purchase of refuge lands.

The overall economic impact of hunting and fishing in Arkansas and across the country is dramatic. According to the most recent 5-year study compiled and released by the U.S. Fish and Wildlife Service, the 40 million people who hunt and fish nationwide spent an average $1,000 each on hunting and fishing in 1991, the most recent year of the study. 1991 hunting and fishing dollars nationally were responsible for 1.3 million jobs, creating a gross household income of $29.7 billion. Individuals and families who hunt and fish generated $2.6 billion in State taxes and $3.8 billion in Federal income taxes, according to the Fish and Wildlife Service survey. Hunting and fishing accounted for $40.9 billion in retail sales. The total national economic impact related to hunting and fishing was $106.1 billion.

In Arkansas, the contribution of hunters and fishermen is as follows, according to the Fish and Wildlife survey for 1991:

Arkansas Hunting (In millions)

Overall economic impact $566
Retail spending $283.9
Household income $149.9
State taxes $13.5
Federal income taxes $17.9

Jobs 9,000

Arkansas Fishing (In millions)

Overall economic impact $767.7
Retail spending $394.2
Household income $203.8
State taxes $21
Federal income taxes $19.5

Jobs 13,200

In terms of deer hunting alone, Arkansas ranked 10th in the Nation with $155 million in retail spending and 4,940 jobs; and our State ranked 8th in migratory bird hunting with $31.2 million in retail sales and 1,000 jobs.

The point to be made is that recreational hunting and fishing is vitally important to the revenue base of local and State hunting and fishing programs. Hunting and fishing are, in fact, significant tools in wildlife conservation. They help the U.S. Fish and Wildlife Service acquire refuge lands and operate and manage those lands, using hunting and fishing as a key tool in managing migratory birds, and game animals and other wildlife, including endangered species. Hunters and fishermen provide the funds to help accomplish all that. Therefore, they deserve and have earned the right to be specifically included as compatible activities as they are now in half of our national wildlife refuges.

I urge the Committee, as it addresses this or any refuge-related legislation, to consider seriously the traditional wildlife conservation partnership that has developed among hunters and fishermen, State and local governments, and the Federal Government for the past several decades. Recreational hunting and fishing are integral partners in the National Wildlife Refuge System and they deserve continuance of that partnership now and in the future.

Thanks for the opportunity to testify today.

Mr. STUDDS. Thank you very much, sir.

I will allow questions of our colleagues. I urge they make them brief. We do have a long panel.

The gentleman from Alaska.

Mr. YOUNG. Mr. Chairman, I want to compliment the two remaining people who testified.

Mr. Gunderson, you bring up some good points on what should be done, the public participation, and I think Jay backed it up. I think the main thing here is if this Congress goes forth, anybody that is interested in the refuge system and the future of it had better recognize what this bill could do. If it is not specifically spelled out, there will be no more refuges.

This isn't King George's day, this isn't the private land of the government to do as a government agency wishes to do. If you don't have that relationship with those people who live by and on and surround the area, the relationship of being partners, we will have the poachers that we had during King George's day and no recognition of refuge.

I hope as we go through with this, Mr. Chairman, that you two gentlemen feel free to offer some suggestions as both of you have done so we can make a good, compatible piece of legislation if there is to going to be legislation in this area.

Mr. STUDDS. Are there other questions?

The gentleman from Pennsylvania.

Mr. WELDON. Mr. Chairman, first of all, let me ask unanimous consent to include my opening statement.

Mr. STUDDS. Without objection.

Mr. WELDON. Along with my colleague, Mr. Young, and others.

[The prepared statements of Mr. Weldon, Mr. Young, Ms. Furse and Mr. Fields follow:]

STATEMENT OF HON. CURT WELDON, A U.S. REPRESENTATIVE FROM PENNSYLVANIA, AND RANKING MINORITY MEMBER, SUBCOMMITTEE ON OCEANOGRAPHY, GULF OF MEXICO, AND THE OUTER CONTINENTAL SHELF

Mr. Chairman, thank you for holding this important hearing on legislation to create an "Organic Act" for the National Wildlife Refuge System (NWRS). As a longtime supporter of the system, I am pleased that we will have the opportunity to hear testimony on the House and Senate refuge management reform bills.

The NWRS is the only major Federal land management system without organic legislations establishing its basic mission. It is my firm belief that the system, which encompasses nearly 500 refuges, needs a comprehensive management plan.

Today, we are closer to enactment of a comprehensive NWRS management act than at any other time since I have been in office. The Senate Environment and Public Works Committee has reported out a bill, S. 823, which goes a long way to accommodating all interests involved in the refuge debate. Still, as we will indoubtedly hear today, wildlife-related recreational opportunities remain a sticking point.

As important as this issue is, we should not lose sight of the forest for the trees. Incompatible uses, ranging from grazing to jet skiing, occur on more than half of our Nation's wildlife refuges. There is now broad agreement that refuges must be protected from these incompatible uses.

Even with respect to hunting and fishing, there has been a quantum shift in the debate from previous years. It was not too long ago that this Subcommittee was holding hearings on Congressman Green's proposal to ban hunting on all refuges. I am pleased that such well-intentioned but ill-conceived measures are no longer even being considered.

Hunting, fishing, and other wildlife-related recreational activities have always been an important part of NWRS. As a member of the Migratory Bird Conservation Commission, I have seen firsthand the enormous contribution duck stamp moneys have made to the refuge system.

This relationship must be preserved. The enactment of a well-thought-out bill should improve the management of the refuge system. Such improvements will act to enhance, not limit, compatible wildlife-related recreational opportunities.

Mr. Chairman, let me compliment you again on holding today's hearing. I believe that building on the work the Senate Committee on Environment and Public Works has done, this Subcommittee can craft legislation that will benefit the National Wildlife Refuge System and the people and wildlife which rely on it.

STATEMENT OF HON. DON YOUNG, A U.S. REPRESENTATIVE FROM ALASKA, AND RANKING MINORITY MEMBER, SUBCOMMITTEE ON FISHERIES MANAGEMENT

Mr. Chairman, wildlife refuges encompass a large portion of our Nation's public lands, totaling over 91 million acres of which my own State of Alaska has been blessed with 77 million acres. The management of the National Wildlife Refuge System has two primary objectives. The first is to acquire, protect, and enhance habitat for wildlife and fish populations and related species, but, just as important, the second objective is to provide wildlife- and fish-related recreation that is compatible with a refuge's primary purpose.

Some will say that the National Wildlife Refuge System is falling apart and certain activities are being allowed which are harmful and inappropriate for the refuge, and new legislation is needed. I don't believe that; I feel that the System doesn't really need more laws but just better management.

In addition, some of the new legislation that has been proposed could be used to stop wildlife-related uses by groups which disagree with activities such as hunting, trapping, and fishing on our wildlife refuges.

Mr. Chairman, I don't think that now is the time to be tampering with the laws governing the management of the National Wildlife Refuge System. I believe that the majority of refuges have clearly stated purposes. In addition, many of the so-called "harmful uses" seem to be outside the authority vested with the Fish and Wildlife Service.

Refuge operations are already facing budget cuts. We don't need to spend time and money producing more paperwork. We need to manage our refuges for all compatible uses, including hunting, trapping, and fishing.

Thank you, Mr. Chairman.

STATEMENT OF HON. ELIZABETH FURSE, A U.S. REPRESENTATIVE FROM OREGON

Mr. Chairman, I applaud your leadership for holding a hearing on this most important topic. Oversight over the National Wildlife Refuge System is one of the primary responsibilities of this Committee, and not one to be taken lightly.

I am a proud cosponsor of H.R. 833. In my corner of Oregon, the Refuge System has been a major success. For example, the Julia Butler Hansen National Wildlife Refuge on the Columbia River is home to the endangered Columbian white-tailed deer. The planned expansion of this refuge will provide enough critical habitat for this species to allow it to be taken off the endangered species list. The refuge was the lynch pin in this endangered species success story.

Another refuge in my district—the Tualatin River National Wildlife Refuge—provides habitat for more than 300 different species within a 20-minute drive from downtown Portland. As a result, this refuge provides unparalleled educational and recreational opportunities for city residents and school children, as well as a much-needed haven for wildlife and migrating waterfowl.

Despite the critical roles that our wildlife refuges play in protecting our Nation's biodiversity, it is clear that the refuge system has management problems and uses that are not compatible with refuge purposes. For this reason, it is important that this Committee consider legislation such as H.R. 833 to address these problems.

Thank you, Mr. Chairman. I look forward to the testimony.

STATEMENT OF HON. JACK FIELDS, A U.S. REPRESENTATIVE FROM TEXAS, AND RANKING MINORITY MEMBER, COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. Chairman, I am pleased that you have scheduled this hearing on H.R. 833, a bill to improve the management of the National Wildlife Refuge System. The National Wildlife Refuge System administers over 91 million acres of land for the purpose of conservation of our fish and wildlife resources. This System also provides opportunities to individuals to participate in wildlife-oriented recreation where they can learn, understand, and appreciate the value of conserving fish and wildlife resources. Today, the Refuge System includes 499 refuges.

Refuges are managed pursuant to the National Wildlife Administration Act of 1966, which authorized activities on a refuge that are "compatible with the major purposes for which the refuges were established." These determinations allow activities if they do not interfere with or detract from the purposes for which the refuge was established. A variety of activities has been found to be compatible, including hunting, trapping, fishing, water skiing, off-road vehicle use, grazing of livestock, mining, hiking, birdwatching, and others.

The hunters and anglers of our Nation have been in the vanguard of the wildlife conservation movement since its very beginning. They have been a strong constituency and have willingly provided enormous financial support for wildlife management programs. They, along with conservation organizations and professional refuge managers, have worked diligently to enhance the fish and wildlife resources throughout our Nation.

The bill is aimed at improving management of the System. Specifically, it would make explicit the purposes of wildlife refuges; establish a formal process for the Department of Interior to determine which current and future uses are compatible with refuge purposes; call for a master system plan and individual refuge plans; and, address the issues of shared jurisdictions between Federal agencies concerning permissible activities on wildlife refuges.

Mr. Chairman, I have some concerns about the bill and I look forward to having the benefit of our witnesses' testimony on these issues.

Thank you, Mr. Chairman.

Mr. WELDON. Thank you for your testimony, and I would agree with my colleague that you both, along with Mr. Brewster, focused on the need for local input, and in fact Mr. Brewster cited a case where a refuge in his district right now is not in fact meeting what he perceives to be the need of the constituents in his district. So perhaps there is some need to provide a process that local input can be obtained.

In your testimony, you say that one of the areas we do need to improve over the present situation is to provide for public participation in the process.

Mr. DICKEY. Ahead of time.

Mr. WELDON. Ahead of time. So perhaps as we listen to the other witnesses today, we can look at the fact that even those who are opposed to this legislation feel there is a need for some improvement to be made.

Thank you.

Mr. STUDDS. Thank you.

If there are no other questions, we thank you very much. We look forward to working with you as we develop the legislation.

Before I turn to the second panel, I would like to insert into the record three letters from former Assistant Secretaries of the Interior supporting the enactment of organic refuge legislation. They are Mr. Nathaniel Reed, Assistant Secretary of the Interior for Fish, Wildlife, and Parks under Presidents Nixon and Ford; Mr. Robert Herbst, who served in that office under President Carter; and Ms. Constance Harriman, who occupied the post under President Bush.

[The information follows at the end of the hearing.]

Mr. STUDDS. Would all five members of the second panel please come forward. We welcome you. We apologize for the delay, although you probably had an opportunity to sense the lay of the land, as it were, in the last hour.

We are going to ask each of you, if you possibly can, to respect the 5-minute limitation on your oral testimony. Your written statements will appear in the record in full. That way, we will have some chance for questions before the inevitable interruptions around midday.

We will begin with our new Director of the Fish and Wildlife Service.

Ms. BEATTIE. Am I still new, Mr. Chair?

Mr. STUDDS. You will always be. Everything is relative around here. You heard Mr. Dingell and Mr. Gibbons. We are all new.

Ms. BEATTIE. Relatively speaking, OK.

Mr. STUDDS. We welcome you back. We are delighted to have you here again.

STATEMENT OF MOLLIE BEATTIE, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE

Ms. BEATTIE. Thank you. Thank you, Mr. Chair, members of the Committee for the opportunity to testify today on the National Wildlife Refuge System Management and Policy Act of 1994. Enactment of this legislation is a very high priority for the U.S. Fish and Wildlife Service and the Administration.

We certainly appreciate the interest and support that the Merchant Marine and Fisheries Committee and you, Chairman Studds, have shown for the National Wildlife Refuge System in the past. The Service would be unable to meet its stewardship responsibilities without your continued support.

The intent behind the organic legislation introduced by Mr. Gibbons, Mr. Synar, and Senator Graham has the strong support of the Administration. We believe the overall intent of H.R. 833 is embodied in S. 823 as reported by the Senate Environment and Public Works Committee, and we would urge the Subcommittee to use the Senate reported bill as its basis for action.

The modern refuge system owes a large debt of gratitude to the foresight and unflinching support of one individual, and that is Congressman John Dingell. In testimony leading to the enactment of the 1962 Refuge Recreation Act, Congressman Dingell expressed concern that uncontrolled, recreational activities could conflict with the purposes for which refuges were established. Again, under the leadership of Congressman Dingell, Congress passed in 1966 the National Wildlife Refuge System Administration Act and assembled these diverse areas into the National Wildlife Refuge System.

Unfortunately, over the years the level of protective care owed to the refuge system has faltered, often because we failed to heed Congressman Dingell's cautionary words. The fact that a 1989 GAO report identified so many harmful activities occurring within the wildlife refuges clearly demonstrates that extreme caution in management was rare.

As visionary as the 1966 Administration Act was in establishing a system of national wildlife refuges and establishing the compat-

ibility test as a central principle for its management, the problems of the system have outpaced the system's legislative authority.

In October of last year, the Fish and Wildlife Service and the Department of Interior settled a lawsuit filed by a number of conservation groups in October of 1992. I mention this settlement agreement here because it is precisely the lack of organic legislation that has contributed to the inability of the service to adequately meet its stewardship responsibilities.

S. 823 as reported would provide the necessary elements needed to strengthen earlier mandates to meet present-day challenges and ensure that the goals established by Congressman Dingell are fully realized.

Today I would like to address my general comments to three primary sections of the bill: refuge system purposes, compatibility, and planning. With regard to the need for purposes of the refuge system, we believe this is one of the most important parts of the legislation since it fills a critical gap in our current refuge law. As reported by the Senate Committee, the purposes of the refuge system stress the conservation and management of fish, wildlife, and plants and, where appropriate, the restoration of fish and wildlife populations, plant communities, and refuge habitats.

Particular purposes of numerous specific units of the refuge system are acknowledged. Importantly, the bill recognizes that if a conflict exists between one of the original purposes of a given refuge and the new statement of system purposes, then the original purposes will control.

Section 6 of the bill deals with one of the most contentious issues within the Fish and Wildlife Service at this time; that is, how we determine compatibility of uses on our National Wildlife Refuges under the Refuge System Administration Act.

In response to the 1989 GAO report on harmful uses requested by this Committee, the Service developed its own survey to better define the scope of the problem. The service has addressed most of the incompatible use problems identified in our survey; developed and implemented a training course on compatibility for all of its refuge managers; prepared revised guidance on compatibility; and increased the dialog with the military over impacts to refuge resources from their activities.

Even with all the progress the Service has made in this area, we feel Section 6 of the Senate-reported bill makes a considerable contribution to the understanding of compatibility. The definition of compatibility and the other prescribed elements required in making a compatibility determination are critical to a greater understanding and more uniform application of the compatibility process. Furthermore, this section would enhance the opportunity for public review and comment during the compatibility determination process.

Section 6 of the Senate-reported bill would also address potential adverse effects of other Federal agency actions on refuge lands. It would provide for the minimizing and mitigating of adverse effects on the resources in an affected refuge from activities of other agencies.

These provisions in the Senate-reported bill were specifically requested by the Administration and we believe that they reflect rec-

ognition of the need for greater cooperation among Federal agencies for the care and protection of the refuge system.

We fully support the provisions in Section 7 of the Senate-reported bill regarding system conservation planning. While numerous refuge units have undergone various forms of comprehensive planning, the end products have varied in quality, context, and scope, frequently with minimal public involvement. This legislation would require that comprehensive conservation plans be completed for all refuge units and for the system as a whole.

The planning element of this legislation would be time consuming. However, we believe that there is sufficient time given to develop these plans, and further believe that planning requirements will enable our refuge managers to take long and careful reviews of their refuge units and those activities that occur on those units.

An equally important advantage of plans and planning process would be that the public would have an opportunity to participate in the development of these plans. We can only see good things coming from this participation.

Again, Mr. Chairman, I thank you for your interest in the National Wildlife Refuge System and urge your passage of this legislation. I stand at your service to assist you in any way possible in making S. 823 the organic legislation that will carry the National Wildlife Refuge System into and through the next century.

I will be pleased to answer any questions you or the Committee may have. Thank you.

[The statement of Ms. Beattie can be found at the end of the hearing.]

Mr. STUDDS. Thank you very much. Extraordinary sense of timing. I appreciate that.

Next, Mr. Max Peterson, speaking for the International Association of Fish and Wildlife Agencies.

STATEMENT OF R. MAX PETERSON, EXECUTIVE VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Mr. PETERSON. Good morning, Mr. Chairman and members of the Committee. I am very happy to be here today to appear before you to discuss the National Wildlife Refuge Management and Policy Act legislation.

Mr. Chairman, I would like to note that I am accompanied today by Mr. Peter Duncan, who is the Executive Director of the Pennsylvania Game Commission and a former President of the International Association, which, as you know, among other things, represents the 50 State fish and wildlife agencies and has the privilege of having Mr. Wayne MacCallum from the great State of Massachusetts as a Cabinet member of our executive committee.

We believe that in spite of some of the problems articulated about the National Wildlife Refuge System, that in general the refuge system has been a success story, as Mr. Dingell indicated. We fully support consistent, professional, coordinated management of the national wildlife refuges.

We also recognize the valid criticism that has been made of some uses that may have been a good idea at the time, such as extensive water skiing and so on which may in fact have grown to the point

where it is detrimental. We certainly favor giving the Fish and Wildlife Service, if it needs it, additional tools to deal with those kinds of problems.

I would also like to note as Director Beattie has indicated that we believe that the Senate-reported bill has gone a long way to meeting the objectives of a lot of different interest groups. We believe that bill generally will be useful for the Fish and Wildlife Service and to refuge managers in management of the system. And, it will help to meet continued fish and wildlife habitat objectives. We would recommend to you, Mr. Chairman, that you start with that bill which has had a lot of effort in the last couple of years.

I would like to note, though, that we believe that any legislation that you produce needs to meet three objectives that we have consistently stated over the last few years.

First, it must recognize the responsibilities and roles of State fish and wildlife agencies and the need for true coordination and cooperation between the Fish and Wildlife Service, the State fish and wildlife agencies, and the local people in the State in meeting conservation objectives.

Second, there needs to be legislative affirmation that, where appropriate, fish- and wildlife-dependent recreation and environmental education activities are among the purposes of the National Wildlife Refuge System.

And third, an assurance that the new processes that are created for compatibility determination and planning are not so onerous and time consuming that the professional refuge manager is engaged and consumed by the process and unable to meet on-the-ground needs and conservation objectives of fish wildlife and habitat conservation. In other words, we want refuge managers to concentrate on scientifically sound resource management and not be diverted to managing a mountain of paperwork.

In other words, Mr. Chairman, we don't want the refuge managers to say, "There ain't no good reason for doing this except the law tells us to do this this year so we have to do this rather than more important things."

We believe that the changes made in S. 823 are of considerable help. We have some suggestions for you that are in my longer statement.

Among other things, we would suggest that the Act make it clear that consultation between the States and the Federal agencies is exempt from the Federal Advisory Committee Act. Recently we have been told that routine meetings between State and Federal agencies that have been going on for 50 years somehow might be subject to the Advisory Committee Act, which we think is incompatible with the legislative history of that act.

We also are suggesting that as I indicated, we believe that fish- and wildlife-dependent recreation uses and environmental education are legitimate purposes of the National Wildlife Refuge System, where consistent with the principles of sound fish and wildlife management.

I guess we are having some trouble understanding why since such provisions have been in regulations for 30 years, that there is some reluctance to put them in the statute. It makes us wonder, as Congressman Young has already indicated, if there is some in-

tent that we don't know about to be reluctant to put what is in existing regulations and policy into this act. Because the Act seems to depend on some future administrative definition of compatibility, the future of some ongoing and long-term uses of the wildlife refuge system are in doubt.

Mr. Chairman, I think that is all we need to say. You have my longer statement. We have been talking to your staff and will continue to do so.

[The statement of Mr. Peterson can be found at the end of the hearing.]

Mr. STUDDS. Thank you very much.

Next, Mr. Reffalt for the National Wildlife Refuge Association.

STATEMENT OF WILLIAM REFFALT, DIRECTOR, NATIONAL WILDLIFE REFUGE ASSOCIATION

Mr. REFFALT. Thank you, Mr. Chairman. My name is Bill Reffalt. I am here today as a member of the board of directors of the National Wildlife Refuge Association, a national organization of refuge management professionals and refuge system supporters.

I thank you for the opportunity to testify and urge this Committee to pass a National Wildlife Refuge System organic law that builds upon existing law, where appropriate, while advancing needed policy guidance, protection for system integrity, and basic planning direction.

I currently have over 34 years of association with the refuge system, including 2 years as chief of the Refuge Management Division here in Washington, DC. I originally obtained nine years of field experience on a half dozen western refuges, starting as a manager trainee and advancing to the position of refuge manager.

Following my association with the Fish and Wildlife Service of 24 years, I worked 8 years as the National Wildlife Refuge System program director for the Wilderness Society and for the last three years I have been actively involved in researching and preparing to write the story of national wildlife refuges. Thus, I have hands-on experience at each level of refuge management within the government, plus extensive background on overall policy development in the administration of public lands and natural resources.

For more than 25 years, there has been a continuing stream of reports by secretarial blue-ribbon committees, the General Accounting Office, and the Fish and Wildlife Service and interested groups. I have annotated a list of those reports documenting that the refuge system is failing to meet much of its potential, and that incompatible, harmful and inappropriate uses are occurring on as many as 60 percent of refuges.

As early as 1968, in a hallmark report submitted to Secretary Udall, the Leopold Committee described the most inhibiting deficiency of the refuge system as lack of a clear statement of policy or philosophy as to what the refuge system should be and what are the logical tenets of its future development.

It is an unfortunate fact that as we discuss the needs of the refuge system over 26 years after disclosure of that basic deficiency, and following those 25 reports, that we still have that same lack of statutory purposes and direction, protective standards and sound planning requirements.

Mr. Chairman, H.R. 833, introduced by Mr. Gibbons and Mr. Synar, is the most straightforward and openly protective measure among the refuge system bills now before the Congress. However, on June 30th, 1994, the Senate Environment and Public Works reported out Senator Graham's S. 823 and many agreements are contained within that bill that are believed necessary to its ultimate passage.

Importantly, S. 823 builds on the solid foundation established by this Committee under the leadership of Chairman John Dingell in passing the Refuge Recreation Act of 1962 and Refuge Administration Act of 1966. The bill explicitly affirms the provisions of the current refuge laws that permit secondary uses such as hunting, fishing, wildlife observation, and other activities so long as they are compatible with the purposes of the refuge.

Our organization strongly supports the continuation of these traditional pursuits on the refuges under the requirements found in current law. We also support the inclusion of an allowance for an expedited compatibility review process. However, as shown by the list of uses that were found by the GAO to be causing harm on the refuges, one cannot assume that any category of uses will always be compatible in every situation and under changing circumstances.

Thus, the compatibility review process developed by the Fish and Wildlife Service should provide for periodic in-depth assessment of all the activities on a refuge, probably on about a 5-year basis to assure that the compatible uses do not become incompatible.

The other feature we believe is vital to the legislation is a sunshine provision for public review and comment on refuge activities and uses. The Senate bill currently would permit elimination of public review provisions if the review had been provided during the planning process. We cannot agree that such a narrowing of public input to refuge management decisions is desirable. The right of all refuge users and supporters to voice their opinions and concerns about refuge management should be preserved in this bill.

Mr. Chairman, I have listed my major concerns, or our major concerns in my testimony, and I won't go over those again. I thank you for the opportunity to testify and I will be happy to take questions.

[The statement of Mr. Reffalt can be found at the end of the hearing.]

Mr. STUDDS. Thank you, sir.

Next, Mr. William Horn speaking now for the Wildlife Legislative Fund of America, formerly an Assistant Secretary under President Bush.

Welcome.

STATEMENT OF WILLIAM HORN, NATIONAL AFFAIRS DIRECTOR AND WASHINGTON COUNSEL, WILDLIFE LEGISLATIVE FUND OF AMERICA

Mr. HORN. Thank you, Mr. Chairman and members of the Subcommittee.

On behalf of the Wildlife Legislative Fund, I greatly appreciate the invitation to appear today and present our views on legislation affecting administration of the wildlife refuge system. WLFA is an

association of sportsmen conservation organizations established to protect the heritage of American sportsmen to hunt, fish and trap. And through its associated organizations, WLFA represents more than one and a half million sportsmen and sportswomen conservationists.

Getting right to the point, we are deeply concerned that proposed legislation including H.R. 833 and S. 823 seeks to create a new, complicated bureaucratic edifice that will adversely impact the wildlife conservation goals of the National Wildlife Refuge System.

We are deeply concerned that substantial personnel and budgetary resources that are in increasingly scarce supply would be diverted to comply with the extensive new planning and finding and paperwork process as established by these bills. These are resources which we believe would be better spent on the ground for wildlife management and conservation purposes.

Let me add that I believe in most cases, the Service possesses adequate authority to deal with most of the incompatible uses identified in various reports. There are a few limited circumstances involving the military, some split estate cases in Louisiana that I am familiar with, where maybe the Service does not possess adequate legal tools. I think in those particular cases, you can craft legislation to provide the Service adequate authority, but we are not sure an across-the-board new planning and bureaucratic process is warranted under the circumstances.

Now, the apparent purpose of these bureaucratic procedures is to make it very difficult to authorize so-called secondary uses on refuge units. And the proponents appear to believe that this is the only way to terminate uses that are clearly compatible but, to be candid, politically entrenched.

The Wildlife Legislation Fund applauds efforts to tighten restrictions on incompatible, non-wildlife-related uses of the refuges, but objects strongly to interposing the same procedural obstacles to traditional wildlife-related uses including fishing, hunting and trapping. We have every reason to fear that these restrictions will be employed to block important and traditional fishing and hunting programs that now exist on the refuge system.

One of the fundamental problems we are addressing is that the inclusion of wildlife-related or dependent recreation as a secondary use lumped in with such contrasting, divergent activities as military overflights, grazing, mining, oil and gas production and non-wildlife-related recreation such as jet skiing which has been mentioned earlier. The establishment of barriers to restrict these uses without appropriate distinctions will inevitably become barriers to fishing, hunting, and trapping programs.

Rather than just simply offer criticism, we would like to present to the Committee what we believe is a solution that would enable the Wildlife Legislative Fund and other elements of the traditional wildlife conservation community to aggressively support reform legislation, a measure that includes, first, clear findings that wildlife-related recreation is a purpose of the national wildlife refuge system; second, statutory recognition that fishing and hunting are fundamentally compatible with the wildlife conservation purposes of the national wildlife refuge system; and third, creation of a hierarchy that subjects approval of wildlife-related recreation to less

stringent standards and procedures as compared to other secondary uses. Adoption of these measures could receive our enthusiastic support. We are ready and willing to work with this Subcommittee to craft language to implement these key concepts.

The fundamental flaw of H.R. 833 and S. 823, at least in their current iterations, is that they put wildlife-related recreation and the supporting community on the wrong side of extensive new bureaucratic procedures. If we fail to clear those procedural obstacles, traditional hunting and fishing programs on the refuge would face termination.

Thank you again for the opportunity to appear today and we look forward to working with the Subcommittee on the text of H.R. 833 as well as to find other ways to improve the administration of the refuge system and to maintain hunting and fishing opportunities on these important public lands.

[The statement of Mr. Horn can be found at the end of the hearing.]

Mr. STUDDS. Thank you very much, sir.

Our final member of the panel is Mr. Peter Berle, President of the National Audubon Society

STATEMENT OF PETER BERLE, PRESIDENT, NATIONAL AUDUBON SOCIETY

Mr. BERLE. Good morning, Mr. Chairman. I have previously submitted written comments which I request be entered into the record.

My name is Peter A. Berle. I serve as President and CEO of the National Audubon Society, one of the organizations whose members helped establish the first refuge on Florida's Pelican Island. Auduboners sought to buy that land from the Government, in order to preserve it. They went to see President Teddy Roosevelt, who had been an active Auduboner in New York. He couldn't figure out how to accomplish the sale and so he said, "I will preserve it by decree. But, gentlemen, there is a catch: I don't have any money." And it was Audubon that provided the funds and indeed hired the original wardens that protected that land.

I appreciate the opportunity to speak with you today because I represent over 600,000 members for whom this is a particularly important subject. I also would like to state that my testimony is offered not only on behalf of the National Audubon Society but on behalf of the Wilderness Society, Defenders of Wildlife, Environmental Defense Fund, the Natural Resources Defense Council, Trout Unlimited, and the International Council for Bird Preservation. Some of these organizations will also, or have submitted their own testimony for the record.

Our organizations appreciate your continued interest, Mr. Chairman, and the inspired leadership of Congressmen Gibbons and Synar and Senator Graham. We strongly support the National Wildlife Refuge System Management and Policy Act. With the modifications articulated in our written statement, we also strongly support the bill as amended by the Senate Environment and Public Works Committee.

The bills before this Committee represent important amendments to the National Wildlife Refuge System Administration Act

legislation which was championed nearly 30 years ago by Congressman Dingell from whom we have heard today. The bills before the Committee would supplement the Refuge Administration Act, and in so doing would provide a more comprehensive organic act for the refuge system, similar to those benefiting the national parks, the national forests, the Bureau of Land Management, and so on.

Two themes appear throughout these bills. The first is the importance of mission. These bills establish a clear statement of mission and purpose for the refuge system and give the Secretary of Interior a mandate to carry it out.

The second—and this is important in light of the testimony we have heard—is the importance of a partnership with the American people. These bills require the Fish and Wildlife Service to work with the public in developing plans for the future of our refuges and ensure that the public has an opportunity to review compatibility determinations.

The National Wildlife Refuge System is the most comprehensive network of fish and wildlife habitats anywhere in the world. It is the only network of Federal public lands in this country that have been established specifically to conserve fish and wildlife.

Later this week the Fish and Wildlife Service, with a lot of urging from Audubon, will purchase the first tract of land for the new Canaan Valley National Refuge in West Virginia, thereby establishing the 500th refuge in the system. Refuges form the core of recovery efforts for many endangered and threatened species, and protect critical breeding and stop-over and wintering areas for hundreds of species of migratory birds. Refuges also provide exceptional opportunities for environmental education and serve as valuable laboratories for scientific inquiry and discovery.

The refuge system also provides important opportunities for wildlife-dependent recreation such as hunting, fishing, bird watching and nature photography. These activities provide service experiences through which the American public can develop an appreciation for fish and wildlife.

Under the terms of the Refuge Administration Act, those wildlife-dependent activities are considered appropriate uses of refuges where they are compatible. And they will continue to be appropriate under the bills now before the Congress.

We support this legislation because we believe that the refuge system has the potential to accomplish significantly more on these fronts, but it needs direction and support and a mandate to do so. H.R. 833 and S. 823 will allow the Fish and Wildlife Service to get beyond its nagging problem with incompatible uses and to meet the many conservation challenges of the coming century.

Refuge systems' problems with compatibility have been well documented. High-powered jet boats, jet skis, and water skis harass and kill herons, pelicans and geese and other migratory birds. Overgrazing damages habitat and undermines the waterfowl. All-terrain vehicles trample land and displace wildlife. Military jets scream over refuge lands, as we know.

The Refuge Administration Act requires that all refuge uses be compatible with refuge purposes. Unfortunately, that legislation did not include a clear definition of what compatible was or describe a process to evaluate compatibility. As a result, the decision

of whether or not to allow a use on a particular refuge has often been made without any review by the public and has been based on political considerations at times and not on science.

The legislation introduced by Congressmen Gibbons and Synar and Senator Graham's bill as marked up by the Senate Environmental Public Works Committee would accomplish a number of main objectives. Both bills provide a clear statement of purpose for the refuge system. The amended Senate bill recognizes that many refuges have been established for specific purposes and have recognized that the purposes of some refuges include providing opportunities for compatible fish- and wildlife-dependent recreation. And these bills provide the original purposes would be primary.

Second, both bills before the Committee provide a clear standard by which one can judge compatibility and they require the Fish and Wildlife Service to make compatibility determinations after substantial public input.

We saw in the development of the plan at Chincoteague National Wildlife Refuge the value of such input. These bills also give the Secretary of Interior duties to protect and provide for the refuge system, and the Senate bill has been amended to deal with numbers of the criticisms about that original provision, and we think it is sound as it now stands.

Finally, they provide a mechanism for resolving conflicts between refuges and actions of other Federal agencies which is critical for the program to go forward. In conclusion, I wish to emphasize that the bills reaffirm that the Secretary of Interior has authority to authorize compatible wildlife-dependent recreation such as hunting.

We feel the bills are strong. We recommend some changes in the Senate bill, but we would urge passage of that legislation in this legislative session.

Thank you, Mr. Chairman. I know my time is up.

[The statement of Mr. Berle can be found at the end of the hearing.]

Mr. STUDDS. Thank you very much, sir.

Let me just observe first of all, I would like a little bit of credit for not raising the question of bombing of my own little favorite wildlife refuge. Usually every year at this time, we at least ask someone to explain one more time why that is good for the critters.

Listening to some of the witnesses, it seems to me that there is concern and alarm and a fear, perhaps even terror, among those who have reservations of one kind or another about the bills, that somehow, somewhere there is a plot to diminish the amount of hunting and fishing that is allowed on the refuge system generally. I think it is a fair statement that that fear or concern lies behind most of the reservations that have been expressed either by members on the preceding panel or by witnesses here.

Ms. Beattie, let me just ask you, because I don't sense any such lot; whether you administered this system under the current law or whether you administered it under some version of the bills that are pending before us now, would you anticipate any significant reduction in the amount of those activities overall?

Ms. BEATTIE. Congressman, no. Since 1986, at least, we have been reviewing particularly hunting and fishing under both stand-

ards of the Refuge Recreation Act and the standards of the Refuge Administration Act.

I have here a copy of our refuge manual from 1986. This is the guidance given in the field. It talks about hunting compatibility with refuge purposes. Refuge hunting programs must be compatible with major purposes for which the refuge was established, and it goes on to describe procedures very similar to what is in S. 823, if not using indeed the same words.

We would not anticipate—except on individual cases of changed circumstances of species that are otherwise undergoing rapid decreases in population numbers, catastrophic events around habitats, those kinds of individual, localized situations—that we will find in this review or any future review many, if any, incompatible hunting programs. Indeed, if there were any plot to get rid of hunting and fishing on national wildlife refuges, we should all be fired for ineffectiveness because, during my tenure, this year we will have opened to hunting another 11 refuges. More than half of the national wildlife refuges are now open to hunting and we anticipate also increasing the number of fishing programs even more.

Mr. STUDDS. I appreciate that. Do you still think the bombing is good for the critters?

Ms. BEATTIE. It keeps them on their toes.

Mr. STUDDS. Except in cases of direct hits. I thank you.

Let me just ask colleagues, if I may, to respect the 5-minute rule on each of us.

The gentleman from New Jersey.

Mr. SAXTON. Ms. Beattie, my experience with the refuge system, probably like other members, extends from the refuge system that I am the most familiar with, and of course that is the New Jersey system, Edwin B. Forsythe Refuge System, which is undergoing a significant expansion currently, hopefully, and we have enjoyed great public support primarily because historic uses have been permitted to continue.

Do you believe that in any way this bill will affect those historic uses beyond what the current system does?

Ms. BEATTIE. Forgive me, Congressman, for not being able to answer that question specific to your refuge. I was provided a briefing book with all of the members' refuges and what is going on on each, but I am afraid I am going to confuse one with the other if I attempt to get into specifics. I will have to speak in a general way.

Again, most refuge uses have been through compatibility determinations. In, I would say, virtually all of our uses, what we agreed to in the lawsuit settlement last year was basically to comply with the law, particularly on nine specific uses that were named, in terms of their compatibility. Second, we agreed to write down our compatibility determinations when we make them, which has not been done as a matter of policy, and therefore allow access by the public to those decisions which is, I think, a large step forward in terms of the management of the refuges. So, no, I do not anticipate any large changes in the uses that are ongoing on national wildlife refuges now.

Mr. SAXTON. In the current system, when an acquisition occurs, the current system provides for a complete shutdown of all use until a plan has been developed; is that correct?

Ms. BEATTIE. Well, that does happen and it sometimes takes longer than others to reinitiate a use that may be a compatible use. One reason is that often we only get a small fragment of what is to be a manageable portion, a meaningful portion of wildlife habitat. If we only get a small portion, it is really hard to reinstitute a use that used to be conducted on a wider area on that small portion, so sometimes it takes us a little longer to reinitiate. So generally speaking, we have an interest in reinitiating uses as quickly as we can after acquiring a piece of land.

Mr. SAXTON. The Chairman is still interested in bombing.

Mr. STUDDS. I just saw the Navy come.

Mr. SAXTON. With their F–14s.

It seems to me, from my experience at least, that the refuge manager enjoys tremendous control. That is true with regard to the ocean front section where plovers nest. And that is good. We have created a place for them to fledge their young and it works very well at the expense of fishermen, but we understand that.

Great controversy in my district about shutting down the Holgate section of the Forsythe preserve to fishing during the fledgling season. Fur flew in all directions—feathers, too, probably. But the refuge manager prevailed. And the same is true of an island that was recently acquired where everything has now been put off limits; no activities occur. The refuge manager put up a sign "no trespassing." Nobody can walk there, nobody can crab there, nobody can hunt there, nobody can fish there. And I am at a loss to understand why we need to do more than we already do to restrict—to give refuge managers more power inasmuch as, at least in my case, they already have absolute power.

Ms. BEATTIE. Congressman, first of all, I think if we are doing anything, if anything is done in this bill, it is not to increase the power of refuge managers, in a couple of ways.

One, it defines compatibility and sort of tightens up that standard and says you know you shall use this standard.

Second of all, I should also say this page out of the refuge manual is one page of probably thousands. That will show you that our refuge managers are given some pretty strong guidance, but within that they have to make decisions based on the particular circumstances of an individual site. But I think a really important part of this bill is that it is meant to increase the public's involvement, increase the exposure of a refuge managers' decisionmaking process to the public and to the world so that people can understand the rationale and disagree with it if they choose.

Right now, that is not necessarily the case. So by exposing the decisionmaking and involving the public, hopefully, we are in fact choosing to spread out the decisionmaking power among the broader public.

Mr. BERLE. I would like to second that comment if I could. We see the requirement of broader public participation which is contained in these bills as really critical to deal with actions that as you, Congressman, have described might otherwise seem arbitrary. So we think it provides better public participation and ultimately

better management decisions based on a science standard which is largely set out in the bill.

Mr. SAXTON. I would just conclude, Mr. Chairman, by saying this. If it meaningfully increases public participation, that is good. If, on the other hand, this is a system which would give a heavier hand to the managers at the expense of local historic uses, which affects public attitude toward the refuge system, it could very well be a negative.

We enjoy in New Jersey pretty good public support for the expansion of the Forsythe Refuge and I am a proponent of it myself. To the extent that the public's attitude becomes disaffected, I think it hurts us long term. And so I think we need to be very careful of the language that we ultimately pass.

Thank you, Mr. Chairman.

Mr. STUDDS. The gentlewoman from Washington.

Mrs. UNSOELD. Thank you, Mr. Chairman.

Although no one is here from the military, I, too, appreciate the sensation of bombing on the newly designated Olympic Marine Refuge.

Mr. STUDDS. They stopped on yours?

Mrs. UNSOELD. They did.

Ms. BEATTIE. Don't tell him that.

Mrs. UNSOELD. I will talk to you afterwards about our secret weapon.

I got an SOS last night, and you may not be the right person to direct it to but I am going to do so anyhow because you know something about it. Is there a threat in the appropriations process on what is going on in the Wetlands Conservation Act?

Ms. BEATTIE. The North American Wetlands Conservation Plan? There has been a decrease in funding, yes.

Mrs. UNSOELD. I apologize that I don't know the level that has been requested by you all.

Ms. BEATTIE. The level that we have requested is $12 million. The House has zeroed that out.

Mrs. UNSOELD. That is why I got the SOS then. OK.

This one I don't know whether I have the right weapon to—our time is very limited.

Ms. BEATTIE. We would be happy to call you about it.

Mrs. UNSOELD. I think they are marking up the conference tomorrow so the call would need to be made very, very quickly.

Let's see what else I can cover while we are doing this. I appreciate not only all who are in this panel but the sponsors of the differing views that went before this panel, and how this process, of necessity, brings us together to try to work out our differences and to try to figure out a way that is going to allow this system of refuges to be made available to the future for the great diversity of use and compatible use that we hope those future generations will see.

And I don't know whether any of you want to comment any additionally. I was going to ask you whether you have available a copy of the press release that you had at the end of July, Ms. Beattie, on the issue of the settlement.

Ms. BEATTIE. I don't believe we have one here, but we can get one to your office quite quickly.

Mrs. UNSOELD. I would appreciate that, because I think that probably encapsulates what we would like to be able to project to much of the public, that the settlement is not a threat.

[A copy of the abovementioned press release appears at the end of the hearing.]

Thank you, Mr. Chairman.

Mr. STUDDS. The gentleman from Pennsylvania. Well, you just missed the newly re-mellowed gentleman from Alaska.

Mr. YOUNG. Thank you, Mr. Chairman.

Ms. Beattie, I have two questions that bother me a little bit. You heard the Senator say that Alaska was exempted from this bill; isn't that correct?

Ms. BEATTIE. Yes, I don't know if it is specifically exempted, but ANILCA does take care of these issues on refuges in Alaska and I believe should be unchanged in that.

Mr. YOUNG. OK. Now, would you consider spelling out a little clearly because it is my interpretation that it exempted Alaska only from the planning process.

Ms. BEATTIE. There are many, many variations in Alaska on refuges and refuge capability because of ANILCA and I can name some of them for you. One is that in Alaska refuges are considered open to hunting and have to be closed, as opposed to being closed to hunting and having to be opened.

Mr. YOUNG. What I am saying is if this bill is to go anywhere, it has to be spelled out because on page 8 of the bill, it says that the Secretary shall find the following things it lists as series. Then it makes the direct determinations if funds are available for the development operations of maintenance. And it says unless the Secretary, in consultation with the Director, determines there is sufficient information available to make a reasoned judgment that a proposed continued or expanded use of a refuge is compatible with the purposes of the system and the refuge, the Secretary shall not permit the use.

Now, what concerns me, Mr. Chairman and Madam Secretary, is under that interpretation, that supersedes the ANILCA law. Now we are not going to have that.

Ms. BEATTIE. Congressman, I can tell that you we would support a clarification that says this does not supersede the ANILCA law. That will be helpful.

Mr. YOUNG. I thank you for that. That is crucial. As I mentioned to Senator Graham, a lot of these things were set down specifically and supported by us because they thought there would be continued uses not outside incompatible uses.

And by the way, I happen to support, I think, present law on ski jets and stuff like that, to stop that right now. But it is important that interpretation of a local director or yourselves could not reinterpret the Alaskan National Lands Act, because I think we had a deal.

Ms. BEATTIE. We would support that position.

Mr. YOUNG. Thank you.

Last, again I go back to Mr. Saxton's proposal and I thought you were making great headway until I heard from the gentleman from the Audubon Society. By the way, I thought the Audubon Society

was making great headway until you told me who else you spoke for, then I get a little suspicious.

Public input—we talk about public participation but in reality it is just a hearing. If the public says no, cannot the refuge director or the Secretary do what they wish to do? I am asking both of you.

I love these public hearings and all these hearings, all the input, and I have been through hundreds of these, and all of a sudden, after it is all said and done and everybody feels good, the end result is zero.

What role does the public have in this process under this bill other than feeling good? Do they have the veto? Do they have the ability to say no? And in fact, that will be put in place through the agency. I am asking. Anybody can answer that question.

Ms. BEATTIE. Congressman, we don't yet have a planning process itself laid out, but generally speaking we try to accommodate all public comments. This will, of course, require us to write them down for the world to see, to accommodate all public comments as best we can within the law.

Often, at a public hearing the public does not come with a law book in hand and does not understand the scope of the authority within which we actually do work. Sometimes the law says no to things that are not ours to say yes to, and that happens quite frequently.

We will, I can assure you, document public comment for the world to see, and if that protest goes on, I am sure things will change quickly.

Mr. BERLE. Congressman, if I could comment on that as well. We have had one experience and that is the Chincoteague experience which was an open process. It was a new process, perhaps, but it involved a lot of input and it produced a plan which had wide public acceptance. So, sure, not every view is always reflected in the final output, but I think our experience throughout time and I think the experience of this body is such that if you hear from enough people, a consensus is easier to put together.

Mr. YOUNG. I understand the consensus. My suspicion, though, that many times has maybe not been proven out, that is a lot of the comments that are made are not listened to. I know this Congress very rarely listens to the witnesses. I say that sincerely.

Mr. BERLE. Congressman, I am not going to apologize for being here because I know you listen to me.

Mr. YOUNG. We go through hours and hours and hours of hearings in the other committee I serve on and it is written up by two or three people who have a special interest, and it is very frustrating, by the way, because it is not anything new.

But my concern in this legislation, number one, is Alaska; and number two, the hunting and fishing is part of and is in fact one of the prime purposes of refuge lands. Because I have known certain groups that you represent now that do not want hunting and fishing on public lands; they don't think it is compatible. I think that is very, very unfortunate because they are the biggest supporters of the refuges.

Mr. Chairman, if I may close. If you lose that public support from the extremists on the environmental movements that do not want the defenders of wildlife, et cetera, any hunting or fishing, you will

lose the refuges. You have to have the support of the so-called conservationists that believe in hunting and fishing as one of the prime purposes of that body of land. And that is what we are going to try to do in this legislation.

Ms. Beattie has given me the assurance that we will definitely spell out where Alaska stands on how refuges will be treated.

And last, Mr. Chairman, one of the reasons I am very adamant about this, I have a letter from a 50-year trapper in an area that was made into a refuge and he supported the refuge. And now he is concerned because of the agency that he will no longer be allowed to do so because the money is not available and in fact it is not compatible. And I feel very good about the fact that we are going to be able to straighten that out.

Thank you very much.

Mr. STUDDS. Let me just reassure the panel that the gentleman greatly overexaggerates your irrelevance.

Mr. YOUNG. I referred to my other committee, by the way.

Mr. STUDDS. Very well.

The gentlewoman from Arkansas.

STATEMENT OF HON. BLANCHE M. LAMBERT, A U.S. REPRESENTATIVE FROM ARKANSAS

Ms. LAMBERT. Thank you, Mr. Chairman, especially for your willingness to put this issue high on a priority list as we are thinking this session will draw to a close.

I know that many Arkansas outdoorsmen are watching this issue very closely in light of the certain recent settlement between the Fish and Wildlife Service and several of the environmental groups to examine the compatible uses of wildlife refuges.

My constituents are very concerned, and that is an understatement. From the phone calls, the letters, the comments I have gotten at home, in the grocery store, and other places, it is definitely putting it mildly.

I had recently written to Director Beattie asking for some assurance we did receive your press release. Basically I know that the discussion today has been on H.R. 833, talking about how things would be affected under this law if passed. I think that basically what we are looking at here could be very helpful, could be a move in the right direction as far as giving the type of umbrella or organic direction to our refuges just as we do to other Federal lands.

I do have some very deep concerns. One size does not fit all for refuges in Arkansas. They don't appear, seem like, smell like the same type of refuge as in Alaska and other places in the Nation. I think it is very critical that we take a serious look at that. The one-size-fits-all is not going to work for the refuges in this Nation, and I would like for us to definitely look at that with some caution.

As I said, I did write to Director Beattie because we have had so much concern in my district over the recent debate, the role that hunting and fishing plays in the management of the refuges. Really, the sharp rhetoric that has been the hallmark of that debate concerns me, it concerns my constituents.

I did get your press release which you sent. My concerns now stem from where we do stand under current law, not under what would happen under 833. And I would like to basically see some

of that clarified if I could today. But the here and the now as I participate for the opening of dove season and duck season, I know the Chairman knows I am a hunter and of my best childhood memories--

Mr. STUDDS. What is it you are going to assault in addition to ducks?

Ms. LAMBERT. Dove.

Mr. STUDDS. That is what I thought you said.

Ms. LAMBERT. But they are wonderful childhood memories of being in the duck blind with my father. I think that is a past time, and certainly childhood memories are shared across the Nation from many young women and young men who it was a part of their life-style in growing up and a real opportunity with their parents as well.

Director Beattie, in the letter that I sent you, it was outlining my concerns regarding the settlement between the Fish and Wildlife and the National Audubon Society, and the potential impact there. I had asked for a response by August the 8th, and I didn't get that. So I am assuming that this is an opportunity to get a response from you. Will the settlement in any way cause hunting, fishing, trapping to cease in the national refuges? I know that you allude to the fact that it possibly would not, in your press release, or to the best of your knowledge, that hunting and fishing will not be impacted this year. Basically, my concern is for the lifetime after that; what about the years to come?

Ms. BEATTIE. Let me explain why we said this year. It was never our intention to affect any hunting this year, largely because the results of the settlement exercise do not come in until the 20th of October. That is the deadline, which is obviously too late to affect anything this year, if anything were to be affected. So that was why the press release referred to this year. We wouldn't even have any answers until far too late.

Second, the question was——

Ms. LAMBERT. I think the concern on the citizens, though, those that were concerned, was that if you didn't get the results of the study, there was no way that you could meet the requirements, and thus, would be impacted.

Ms. BEATTIE. First of all, we have to have a compatibility statement in order to act. So if we don't have a statement, we can't act.

Second, we are only required to remove any incompatible use expeditiously. That does not mean it has to stop tomorrow, by any means, even many of the blatantly incompatible uses, and I am not talking about hunting and fishing. Again, the settlement was not about hunting and fishing. It was about other types of economic uses of the refuges and other types of obviously blatantly, nonwildlife-oriented activities that we are trying to get rid of. And even with those cases, we are, in some cases, trying to work out deals where they are phased out so that there is less of an abrupt stop. So certainly things do not stop tomorrow for both of those reasons, in any case.

Now, let me go back to your first question, which is—will the lawsuit settlement affect hunting and fishing anywhere on any refuge in the United States? And the answer is, because I cannot anticipate what the refuge managers will send in, I cannot say flatly

no. There may be individual cases of incompatible hunting programs. And by incompatible hunting programs, I mean literally they in a serious way interfere with the purposes for which the wildlife refuge was set aside.

Now, I can't imagine that there would be many. First of all, again, since 1986, long before the tenure of anybody here, those hunting programs have been through compatibility checks. Some circumstances could have changed with some species, some habitat, something somewhere that we are going to see.

But there is no change in policy, and there is certainly no targeting of hunting and fishing programs. There is certainly no effort to stop hunting and fishing on National Wildlife Refuges. But we could find a case in which there is an incompatibility between the purposes for which a refuge was set aside by the Congress, or by whomever, and a hunting program.

Ms. LAMBERT. Well, I guess in that sense, then, it would definitely be important to clarify in 833, and others, what the purpose and objectives there are for refuges. Because I think the understanding has been for quite some time that that purpose and objective has been for maintaining wildlife for hunting and fishing and for recreational purposes for the constituency that basically keep it up and conserve it.

I appreciate you being here today and I would very much appreciate something in writing from your office to that effect.

Ms. BEATTIE. Thank you. I will provide that quickly.

[The information can be found at the end of the hearing.]

Ms. LAMBERT. Because I still do have some concerns and we would like to be able to work with you on that.

Thank you all for being here, today.

Thank you, Mr. Chairman.

Mr. STUDDS. The patient gentleman from Pennsylvania.

Mr. WELDON. Thank you, Mr. Chairman, and thank you all for coming in today and testifying.

Let me begin by acknowledging the presence of one of my State's distinguished constituents, Peter Duncan, who is here accompanying Max Peterson. Peter is the Executive Director of the Pennsylvania Game Commission, former President of the Association.

We are happy to have both of you here today.

Let me say in regard to your testimony, Mr. Peterson, I agree with one of your three assumptions that we need to reinforce the notion of environmental education as a key purpose on our refuges. I have been working very closely with the John Heinz National Wildlife Refuge at Tinicum, and one of our key goals has been to strengthen and improve the environmental education program. That needs to be reinforced throughout the system.

Let me also comment on the testimony by Mr. Reffalt, the discussions about more public input and comment. And Mr. Reffalt in his statement reinforces the fact that perhaps we are going in the wrong direction in this legislation by—in one section in the Senate bill, actually disallowing some of the public review. Perhaps that is something we need to address as we move toward what appears to be a consensus, at least on most of your part, that the Senate bill is perhaps a better vehicle than the House bill.

Perhaps you would like to comment on that, Mr. Reffalt, that you in fact stated here that we should have more public input and that needs to be addressed in changing the Senate bill.

Mr. REFFALT. Thank you, Mr. Weldon.

Mr. Chairman, Mr. Weldon, the point that I was trying to make is the bill as it is structured right now, the modified version of S. 823 as reported, requires that public input to compatibility and refuge planning decisions be accommodated at the time the plan is conducted. But if that has been done, it allows the Fish and Wildlife Service to avoid public input for reevaluation of those uses later on.

And it is my view that you can get too far away from that, from that time process and period when you had public input. I think everybody here has said these decisions affect people's lives and their desires and their hobbies, and so on, and that they should have a right to come in and speak to that. We would like to keep that process as open as possible. Not bureaucratic. Announcements in the local newspapers, so forth, to facilitate an understanding that a time and place is going to be available where they can put forth their ideas, in addition to the **Federal Register**, et cetera. I think it could be improved right now from what it is, but, again, S. 823 has been improved in numerous cases to accommodate most people's needs.

Mr. WELDON. I appreciate that. I want to get to the issue of hunting, which is the major concern I guess that is being expressed by everyone here.

I think we need to clarify one important point. Mr. Berle, the Audubon Society in filing the lawsuit several years ago, there has been some mention that the intent was to challenge hunting and fishing. On the record, would you state what was in fact Audubon's goal? What were you pursuing in that lawsuit?

Mr. BERLE. Our goals were to eliminate a series of articulated, incompatible uses. Hunting was not one of those. The uses involved bombing, jet-skiing, a lot of things that we have heard about. And we have always believed that hunting is a compatible use based on the science and public input. And so this bill, we believe, will help make that clear.

But the reason that we need the bill is so that we are not left with a lack of standard and the arbitrary provisions and processes that have been described. We agree with the comment that I just heard that the Senate bill needs to be cleaned up with respect to the public input.

Mr. WELDON. I thank you for that comment and clarification. Let me just say for the record, serving with my friend and colleague, John Dingell, on the Migratory Bird Conservation Commission, each and every project that we approve, we ask the question of the State officials there: Is hunting permitted? So there is a conscious effort to make sure that the concerns of local sportsmen are being met. And as a member of the Sportsmen Caucus, that is a concern of mine as well.

However, I have another concern. For instance, a refuge that I worked very hard for the past eight years is next to the city of Philadelphia. And when someone tells me it is going to automatically be told that that refuge has to allow hunting, I have some

grave concerns for that. If you have ever been to John Heinz Wildlife Refuge at Tinicum, you are right at the city boundaries. So I think we have to avoid going to either extreme here and try to allow what is in fact the best usage, while recognizing that hunting and fishing are critical.

But I think to try to say that every refuge should have hunting as a stated purpose, goes too far in the other direction. I say that from my own personal experience.

I would like you to comment on, and I think this was referred to by Mollie Beattie in your testimony, that the Senate bill, as I understand it, does have an expedited process for consideration. And that expedited process specifically applies to fishing, hunting, wildlife observation, nature photography, where there would be an expedited system for getting the compatibility issue resolved. Is that still not satisfactory?

Perhaps, Mr. Horn, you would want to comment on that.

Mr. HORN. Mr. Chairman, Mr. Weldon, we have looked at that, and no, to this point we do not believe that the language in the latest iteration of 833 is sufficiently satisfactory. We appreciate the good-faith effort to accommodate our interests, but we don't think we are there yet.

Problems arise in a couple of particular areas. Addressing the fundamental issue of compatibility, the latest iteration of 833 essentially leaves the precise definition of compatibility to be dealt with in a regulatory capacity, sometime after enactment of legislation. It does not deal and provide the level of specificity that I heard some of the other members discussing this morning. And it does not provide the level of specificity that we are looking for at this point.

Second, it is an overall consideration that the Chairman earlier referred to, you know, a plot. And I think that our fundamental concern is that any time you create rather complicated administrative procedures that require an agency to be extremely rigorous in dotting "Is" and crossing "Ts," that it basically provides opportunities for legal mischief for organizations that, frankly, aren't represented here today among the animal rights organizations. And any time that they have an opportunity to go into some judge and tell the Agency you didn't dot the "I," you didn't cross the "T," therefore, you have got to enjoin a particular activity, we are extremely concerned that this legislation not expand opportunities for that form of legal mischief.

And we take Audubon and others at good faith, that is not their objective. But there are folks out there who that is their objective, and we don't want to provide them opportunities. That is why I think we have outlined how we can work with this Committee to craft legislation that we can support.

We would like to support legislation. We would like to get at tightening down on some of these nonwildlife-related uses. We just don't want to find ourselves on the wrong side of a new set of bureaucratic impediments.

Mr. WELDON. I understand your concern.

Just in closing, Mr. Chairman, let me say that I would be more than willing to work with the various groups here at the table in trying to accomplish this. I think there has been significant change

made to the legislation to help accommodate the interests of hunters and those who fish, and I think we ought to continue to work this in that direction.

And let me just say, Mr. Chairman, that I think this is a high priority, as far as I am concerned. I am willing to work with you. I know you are going to play a major role as a leader on this issue and I think it is an important issue that we should try to get addressed before the Congress before we adjourn this fall.

Mr. STUDDS. Perhaps you could join me in an amendment that states that jet-skis are incompatible with domestic tranquility and the quality of life, generally. Unless, of course, they are manufactured in your district.

Mr. WELDON. They might be. We do make the osprey there.

Mr. STUDDS. I see. I want to thank you. I want to thank the panel. It has been very useful, actually. We may be faced with an absolutely unprecedented situation in the Senate actually doing something first. I am not sure that has happened in our lifetime.

I thank you. It has been extremely helpful, and we look forward to working with you as we proceed.

The Committee is adjourned.

[Whereupon, at 12:02 p.m., the Subcommittee was adjourned, and the following was submitted for the record:]

TESTIMONY OF MOLLIE BEATTIE, DIRECTOR OF THE U.S. FISH AND WILDLIFE SERVICE, BEFORE THE SUBCOMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES, HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE, REGARDING THE NATIONAL WILDLIFE REFUGE SYSTEM MANAGEMENT AND POLICY ACT OF 1994

August 9, 1994

Thank you, Mr. Chairman, for the opportunity to testify today on the National Wildlife Refuge System Management and Policy Act of 1994. I am pleased to testify today on this legislation, which is of such high priority for the U.S. Fish and Wildlife Service, the Department of the Interior and the Administration.

We certainly appreciate the interest and support that the Merchant Marine and Fisheries Committee, and you, Chairman Studds, have shown for the National Wildlife Refuge System in the past. The Service would be unable to meet its stewardship responsibilities without your continued support.

The intent behind the "organic" legislation introduced by Mr. Gibbons, Mr. Synar and Senator Graham has the strong support of this Administration. We believe the overall intent of H.R. 833 is embodied in S.823 as reported by the Senate Environment and Public Works Committee, and we would urge the Subcommittee to use the Senate reported bill as its basis for action.

The Senate-reported bill will improve the administration and management of the System. It establishes for the first time a statement of purposes for the System, improves the compatibility determination process, establishes comprehensive planning for the

System, and provides for interagency coordination in maintaining refuge resources. This legislation also provides further guidance on our relationships with other agencies. In some instances, this guidance has been lacking to date.

With the 100th anniversary of the National Wildlife Refuge System approaching and the 500th national wildlife refuge about to be established, this legislation has come at a timely juncture in a new era of wildlife conservation and management, as we begin moving our focus from individual parcels of land to ecosystems. We believe that this legislation is essential to the integrity of the National Wildlife Refuge System -- a system that has been viewed as one in trouble.

The modern refuge System owes a large debt of gratitude to the forsight and unflinching support of one individual, Congressman John Dingell. In 1962, Congressman Dingell recognized both the unique values and serious challenges facing national wildlife refuges. In testimony leading to the enactment of the 1962 Refuge Recreation Act, Congressman Dingell expressed concern that if uncontrolled, recreational activities could conflict with the purposes for which refuges were established. Despite passage of the 1962 Act, no single law governed the administration of the various wildlife refuges that had been established. Again under the leadership of Congressman Dingell, Congress passed in 1966

the National Wildlife Refuge System Administration Act, and assembled these diverse areas into the National Wildlife Refuge System.

It is important to note that in the report issued by this Committee for the 1966 Refuge System Administration Act, Mr. Dingell urged that the Service first carry out "the intended purposes of the areas within the System for which they are established and to permit other uses of such areas only when extreme caution has been exercised to make sure that the other uses are compatible and incidental and secondary to the primary purposes."

Unfortunately over the years the level of protective care owed to the Refuge system has faltered, often because we failed to heed Congressman Dingell's cautionary words. The fact that a 1989 GAO report identified so many harmful activities occurring within wildlife refuges clearly demonstrates that "extreme caution" in management was rare.

In the 28 years since the National Wildlife Refuge System Administration Act was passed, the System has grown from 300 refuges totaling 28 million acres to 499 refuges totaling 91 million acres.

But more has changed in the intervening 28 years than the size of

the System. As visionary as the 1966 Administration Act was in establishing a system of national wildlife refuges and establishing the "compatibility" test as the central principle for its management, the problems of the System have outpaced the System's legislative authority. The refuge bill S. 823, as amended and reported by the Senate Environment and Public Works Committee, would greatly assist us in meeting these additional challenges.

I would like to point out, also, that this legislation was not developed in a vacuum -- there have been long and serious deliberations with the various parties that share interest in this legislation, including several years of work by this Committee. The bill reported from the Senate Committee embodies significant compromise by those involved in order to reach agreement. Not surprisingly, some controversial elements still remain.

In October of last year, the Fish and Wildlife Service and the Department of the Interior settled a lawsuit filed by a number of conservation groups in October of 1992. As some of you are aware, this settlement has caused some concern to hunters and anglers who have been misled to believe that the Fish and Wildlife Service plans, through this settlement, to eliminate hunting and fishing on our national wildlife refuges.

We are perplexed as to how a lawsuit settlement which requires us to comply with long-standing laws -- the 1962 Refuge Recreation Act, the 1966 Refuge System Administration Act, and the National Environmental Policy Act of 1969 -- and to make our compatibility determinations available to the public can be construed as an intention to eliminate hunting and fishing on the National Wildlife Refuge System -- especially at a time in which we continue to open refuges to hunting and fishing. During the 1993-94 season, we opened 8 additional refuges to hunting and 3 to fishing, and we have proposed to open 3 more for this fall.

Compatibility reviews are a means of ensuring that all secondary activities on national wildlife refuges are compatible with the primary purposes for which the units were established. That is a concept that sport-hunter conservationists have long supported. The only difference is that we are now making the compatibility determinations, and the determinations of availability of funds to manage recreational programs required by the Refuge Recreation Act, in writing.

In response to inaccurate reports that the Service was planning to end hunting on national wildlife refuges, we issued a press release on July 27, 1994, affirming our longstanding policy of supporting compatible outdoor recreation such as hunting and fishing.

The Service must continue with its review of refuge funding and compatibility issues, but we will not be making any final decisions until later this year. Therefore, we will not be halting any refuge hunting programs this fall, and never planned to do so. In addition, we will consult with the States and the affected public on any significant changes proposed to be made in refuge public uses as a result of these reviews.

Hunters and anglers have been in the vanguard of the wildlife conservation movement since its very beginning, and have willingly provided enormous financial support for wildlife management programs. There is no way the Service is going to turn its back on this vital constituency.

I have referred to the settlement agreement because it is precisely the lack of "organic" legislation that has contributed to the inability of the Service to adequately meet its stewardship responsibilities. The proposed "organic" legislation would provide the necessary elements needed to strengthen earlier mandates to meet present-day challenges, and to increase the public's understanding and participation in the National Wildlife Refuge System, to ensure that the goals of the legislative foundation established by Congressman Dingell are fully realized.

We believe that S. 823, as reported by the Senate Committee, meets the challenges facing the National Wildlife Refuge System

of the 21st century. This bill builds upon the National Wildlife Refuge System Administration Act to provide an "organic" act for the System similar to those which exist for other Federal lands. Its principal focus is to provide clear Congressional guidance for the System (including a statement of purposes for the System), to provide a mechanism for System-wide and refuge-specific planning, and to give refuge managers clear direction and procedures for making compatibility determinations.

Today, I would like to address my general comments to the three primary sections of the bill: Refuge System purposes, compatibility and planning.

With regard to the need for purposes of the Refuge System, we believe that this is one of the most important parts of the legislation, since it fills a critical gap in current refuge law. As reported by the Senate Committee, the purposes of the Refuge System stress the conservation and management of fish, wildlife and plants and, where appropriate, the restoration of fish and wildlife populations, plant communities and refuge habitats.

Particular purposes of numerous units of the Refuge System are acknowledged as including the preservation, restoration and recovery of fish, wildlife and plants pursuant to the Endangered Species Act; the fulfillment of international treaty obligations with respect to fish, wildlife and plants, and their habitats;

and provision for compatible fish- and wildlife-dependent recreation and environmental education. We feel that this latter provision is noteworthy because it legislatively recognizes that numerous units of the National Wildlife Refuge System have been established with varying valid purposes. Importantly, the bill recognizes that if a conflict exists between one of the original purposes of a given refuge and the new statement of System purposes, then the original purposes will control. I firmly believe this section of the bill will enable the Refuge System to move boldly into the 21st century with clear direction.

Section 6 of the bill deals with one of the most contentious issues within Fish and Wildlife Service at this time -- how we determine the compatibility of uses on our national wildlife refuges under the Refuge System Administration Act. I noted earlier that we had settled a lawsuit with a number of conservation groups concerning the matter of compatibility. However, this is not the first time that the Service has reviewed this matter.

In response to a 1989 GAO report on harmful uses occurring on national wildlife refuges, requested by this Committee, the Service developed its own survey to better define the scope of the problem. This survey affirmed many of the problems brought out in the GAO report. In response, the Service has: addressed most of the incompatible use problems identified in our survey;

developed and implemented a training course on compatibility for all its refuge managers; prepared revised guidance on compatibility; and increased the dialogue with the military over impacts to refuge resources from their activities. In addition, a database has been developed to inventory and track all uses on national wildlife refuges, and a better method for documenting costs associated with secondary uses on our refuge units has been implemented.

Even with all the progress the Service has made in this area, we feel that Section 6 of the Senate-reported bill makes a considerable contribution to the understanding of compatibility and, especially, to the ongoing relations between the Department of the Interior and other Federal agencies as they relate to refuge lands. The definition of compatibility and the other prescribed elements required in making a compatibility determination are critical to a greater understanding and a more uniform application of the compatibility process. Furthermore, this section would enhance the opportunity for public review and comment during the compatibility determination process.

Section 6 of the Senate-reported bill would also address potential adverse effects of other Federal agency actions on refuge lands. It would provide for the minimizing and mitigating adverse effects on the resources of an affected refuge, identified during a Federal agency's compliance with the National

Environmental Policy Act (NEPA) of 1969. In those instances where the adverse impacts have not been identified during the NEPA process, there would still be an opportunity for the Secretary of the Interior to make appropriate notice of this to the other Federal agency involved, so that it could make appropriate provisions for minimizing or mitigating the identified impacts, to the extent practicable.

The content of these provisions in the Senate-reported bill were specifically requested by the Administration, and we believe that they reflect recognition of the need for greater cooperation among Federal agencies for the care and protection of the Refuge system. It should be noted that progress is already being made by the same Federal agencies in reducing the adverse effects of their actions on wildlife refuges.

I want to commend the Defense Department, and specifically the Air National Guard for their extensive efforts to assist in resolving overflight issues between the military and many of our refuges. By way of further example, the FAA has joined us and other land managers in a multi-agency working group to seek resolution of overflight issues generally.

Where the Service does not hold primary jurisdiction over certain refuge lands, the Senate-reported bill would not apply the compatibility standard to those actions which are directly

related to the primary mission of the agency having primary jurisdiction. However, the Service would still exercise the authorities granted to it through the negotiated memorandum of understanding or other interagency agreement that led to inclusion of the area in the Refuge System in the first instance.

The bill also clarifies that the compatibility standard would not apply to airspace over a refuge, to existing Federal navigation and communication aids on refuges, or to existing highway rights-of-way through refuges. These actions were taken to either recognize the general lack of Service jurisdiction over the activity, as is the case with overflights. or to allay concerns that the new compatibility process might somehow affect the retention of certain existing facilities which serve the general public. Provisions for protection of refuge resources have been included, however, to ensure that any adverse impacts are minimized.

Of equal importance are the provisions for military use of airspace over Cabeza Prieta National Wildlife Refuge and Desert National Wildlife Refuge and for ground uses of lands at Desert National Wildlife Refuge. Airspace use would be governed by the memoranda of understanding between the Service and the military, or amendments or revisions thereto, referenced in Public Law 99-606, the Military Lands Withdrawal Act of 1986.

Primary jurisdiction over the lands within the Desert National Wildlife Refuge that are contained within the bombing range portion of Nellis Air Force Range would be transferred to the Secretary of Defense for continued use in bombing and other aerial-related ground impacts. Secondary jurisdiction over these lands would remain in the Refuge System with the Service. The Administration proposed this action in recognition of the essential nature of the military mission at Nellis, and of concern over the application of the compatibility test to use of the bombing range within the refuge.

Within 3 years of the jurisdictional transfer, the Secretary of Defense would identify to the Secretary of the Interior and to the Armed Services Committees of Congress those Department of Defense lands that could be transferred to and included within the National Wildlife Refuge System. This transfer would occur within 5 years of the enactment of this legislation. This transfer of lands enables the Service to strive towards "no-net-loss" in resource lands suitable for conservation and protection within the Refuge System. We believe this arrangement to be in keeping with the important missions of both departments.

We fully support the provisions in Section 7 of the Senate-reproted bill regarding system conservation planning. While numerous refuge units have undergone various forms of comprehensive planning, the end products have varied in quality,

content and scope, frequently with minimal public involvement. This legislation would require that comprehensive conservation plans be completed for all refuge units, and for the System as a whole.

The planning element of this legislation will be time-consuming; however, we believe that there is sufficient time given to develop these plans and, further, believe that the planning requirements will enable our refuge managers to take long and careful reviews of their refuge units and those activities that occur on those units. An equally important advantage of the plans and planning process would be that the public would have an opportunity to participate in the development of these plans. We can only see good things coming from this participation.

I would make one final point. While we strongly support S. 823 as reported in the Senate, we must recognize the passage of this legislation will result in additional responsibilities and tasks for an already overburdened Refuge System staff. There is a cost associated with this legislation---a cost in personnel time and program funding. The Fish and Wildlife Service is willing to make necessary sacrifices to ensure that these costs are absorbed to the maximum extent possible. However, it is incumbent upon us all to not forget that it will take our concerted efforts to make the noble ideals of this legislation a reality.

Again, Mr. Chairman, I thank you for your interest in the National Wildlife Refuge System and your continued commitment to our precious wildlife resource. I urge your every consideration for passage of this legislation, and stand at your service to assist you in any way possible in making S. 823 the "organic" legislation that will carry the National Wildlife Refuge System into the next century.

We will be happy to work with you to address any concerns you may have, or other issues that may arise.

I will be pleased to answer any questions you may have.

DEPARTMENT of the INTERIOR
news release

Fish and Wildlife Service

For Release: October 20, 1993 Hugh Vickery 202-208-5634

INTERIOR, CONSERVATION GROUPS RESOLVE LAWSUIT

The Interior Department today announced settlement of a lawsuit filed by conservation groups concerning recreational and commercial activities on nine National Wildlife Refuges and the process for approving public use of the refuge system as a whole.

Under the settlement, Interior's U.S. Fish and Wildlife Service agreed to issue written evaluations of all recreational and commercial activities permitted on refuges, with appropriate compliance with the National Environmental Policy Act.

The Service also will determine whether sufficient funds are available to develop, operate, and maintain recreational uses not directly related to the purposes of each refuge, as required under the Refuge Recreation Act.

Recreational activities such as fishing, boating, birdwatching, and hunting, as well as commercial activities such as haying, grazing, timber harvest, or mining are considered secondary uses of a refuge. Under existing law, any secondary use on a refuge must be compatible with the purposes for which the refuge was established.

The lawsuit was filed in October 1992, by the National Audubon Society, the Wilderness Society, Defenders of Wildlife,

(more)

the Black Hills Audubon Society, and Alan D. Riley. It alleged incompatible secondary uses were being permitted on nine refuges and that the Department was failing to follow legal requirements in allowing similar uses throughout the refuge system.

Refuges named in the suit were: Cabeza Prieta NWR (National Wildlife Refuge) in Arizona, Camas NWR in Idaho, Crystal River NWR in Florida, Great Meadows NWR in Massachusetts, Havasu NWR in Arizona, McNary NWR and Turnbull NWR in Washington, Monte Vista NWR in Colorado, and Umatilla NWR in Oregon and Washington.

"The vast majority of activities on refuges are non-controversial and don't harm the refuge or the wildlife," said Interior Secretary Bruce Babbitt. "But where we do have problems, we will do what we can to eliminate them. Settlement of this lawsuit clearly signals the Interior Department's intent to protect our National Wildlife Refuges."

"In most respects, this agreement builds upon initiatives the U.S. Fish and Wildlife Service has already undertaken to enhance management of secondary uses on refuges," Service Director Mollie Beattie said. "It is also an important first step in reaching the goals outlined for the refuge system in 'Refuges 2003,' the draft plan and environmental impact statement released earlier this year."

An internal survey conducted by the U.S. Fish and Wildlife Service in 1991 found that just 2 percent of the more than 6,000 secondary uses in the system were incompatible, and that half of these were beyond the Service's jurisdiction to control. The majority of these incompatible uses have since been terminated and others are being phased out.

Each year the Refuge System records more than 6 million visits for recreational hunting and fishing, and more than 30 million visits for other wildlife-oriented recreation, such as birding and wildlife photography. Public demand for a wide diversity of recreational activities on refuges continues to increase.

Commercial activities, such as grazing and farming, have been allowed on many refuges since the early part of this century, both to accommodate local agricultural interests and as tools to enhance habitat for wildlife.

On eight of the nine refuges singled out in the lawsuit, the Department agreed it will discontinue the alleged incompatible uses unless they are found to be compatible after a written assessment and compliance with the National Environmental Policy Act.

(more)

These activities include grazing at Monte Vista NWR, Camas NWR, and Turnbull NWR; some non-wildlife-related recreational activities at Crystal River NWR, McNary NWR, Great Meadows NWR, Havasu NWR, and Umatilla NWR.

In the case of Cabeza Prieta NWR, the Department agreed to evaluate its legal authorities to control military operations affecting the refuge and to act accordingly.

A separate lawsuit filed at the same time sought to end the use of Sea Lion Rock at Copalis National Wildlife Refuge as a practice bombing target by the Navy. The plaintiffs were Defenders of Wildlife, the National Audubon Society, The Wilderness Society, the Natural Resources Defense Council, American Oceans Campaign, and the Washington Environmental Council. The Navy, which had been using the small island as a target since 1944, halted bombing operations there in March, 1993. In August 1993, the Interior Department rescinded permission for the Navy to bomb the island, rendering the lawsuit moot.

The National Wildlife Refuge System is the world's largest and most diverse collection of lands and waters set aside specifically for wildlife. Its 491 refuges cover more than 91 million acres in all 50 states and several territories.

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FACT SHEET ON REFUGES CITED IN LAWSUIT

ISSUE: MILITARY OVERFLIGHTS. Airspace over National Wildlife Refuges is under the jurisdiction of the Federal Aviation Administration.

Cabeza Prieta NWR, AZ. Established in 1939, the 860,000 acres of Sonoran desert southeast of Yuma provides habitat for desert bighorn sheep, endangered Sonoran pronghorn antelope, and other species. An Air Force range was overlain on the refuge in the 1940s. The Air Force and the Marine Corps conduct military training exercises under a Memorandum of Understanding and a special use permit.

Resolution: Within six months, the Service will determine its authority to regulate or control military operations within or affecting the refuge and will take actions necessary and appropriate to protect the refuge.

ISSUE: GRAZING. As appropriate, grazing is used on national wildlife refuges to control exotic weeds and to achieve a desired mix of cover for food and nesting waterfowl habitat.

Camas NWR, ID. The 10,600-acre refuge near Idaho Falls was established by executive order in 1937 as resting and nesting grounds for migratory birds and other wildlife.

Resolution: AUMs are not to exceed 1992 levels on the 1993 permit. The Service will not allow grazing in subsequent years unless it finds it compatible and that it is a practical, effective, and ecologically sound management tool. If grazing is allowed, the Service agrees to implement a monitoring program.

Monte Vista NWR, CO. Established in 1953, the 14,000-acre refuge in south central Colorado provides nesting habitat for waterfowl and is used by bald eagles, whooping and sandhill cranes, white faced ibis, and nearly 200 other species of birds.

Resolution: In 1993, grazing is limited to the 1992 level and in succeeding years will be subject to the same conditions as at Camas NWR (listed above).

Turnbull NWR, WA. The 15,500-acre refuge southwest of Spokane was established in 1937 by executive order for migratory birds and other wildlife.

Resolution: No grazing permits this year. Permits in succeeding years will be subject to the same conditions as at Camas NWR and Monte Vista NWR (listed above).

ISSUE: RECREATIONAL USES. Recreational activities may be allowed on a refuge when they are compatible with the purposes for which the refuge was founded.

Crystal River NWR, FL. The 43-acre refuge in King's Bay on the gulf coast was established in 1983 to protect Main Spring, a warm water area important to the endangered manatee. Motorized boating, diving, snorkeling, camping, and swimming occur on the spring.

Resolution: The Service will promptly reassess compatibility, will implement a plan to ensure uses are compatible, and will determine if adequate funds are available for maintaining those uses. The Service will terminate the uses by November 1, 1993, unless it determines the uses are compatible and funds are available. The Service also agrees that it will implement expanded programs to ensure any level of use is compatible.

McNary NWR, WA. The 3,600-acre refuge on the Columbia and Snake Rivers southeast of Richland was established in 1955 for migratory birds by a cooperative agreement with the Corps of Engineers and is cooperatively managed with the Bureau of Reclamation. Swimming, beach use, and other recreational activities occur on the refuge.

Resolution: Under the settlement agreement, the Service will not open the refuge to non-wildlife-oriented uses in future years unless it can demonstrate that the uses are compatible with the primary purposes of the refuge, that a reason exists to override the Service's policy to phase out non-wildlife oriented recreation on the refuge, and that funds are available for the development, operation, and maintenance of recreational uses not directly related to the primary purposes and functions of the refuge.

Great Meadows NWR, MA. Located 15 miles northwest of Boston along the Sudbury and Concord Rivers, the 3,100-acre refuge was established in 1944 for migratory birds including waterfowl and wading birds. Motorized boating and jetskiing occur on the rivers.

Resolution: The Service will, within 12 months, determine the authority to regulate waterborne activities and will finalize necessary regulations and assess compatibility of uses. If additional authority is necessary to protect the refuge, the FWS will "utilize its best efforts" to secure authority to propose or support legislation.

Havasu NWR, AZ. The 38,000-acre refuge along the lower Colorado River in Arizona and California was established in 1941 for

migratory birds and other wildlife. Power boats, jet skis, beach use, and swimming occur in and on the river and refuge.

Resolution: The agreement is identical to Great Meadows NWR in relation to waterborne activities. In relation to other uses, the Service agrees to terminate them within one year unless it determines them to be compatible and that adequate funds are available.

Umatilla NWR, OR/WA The 24,000-acre refuge along the Columbia River in Oregon and Washington was established in 1969 by cooperative agreement with the Corps of Engineers as mitigation for the loss of wildlife habitat caused by the John Day dam. Airboats, jet skis, and motorboats are used on the river.

Resolution: The agreement is the same as that for Havasu NWR and Great Meadows NWR in relation to waterborne activities. For other activities on lands and islands, the agreement is the same as for Havasu NWR, meaning the Service will terminate the uses within one year unless they are determined to be compatible and there are adequate funds.

TESTIMONY BEFORE THE HOUSE SUBCOMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES ON THE NATIONAL WILDLIFE REFUGE SYSTEM AND H.R. 833 AND S. 823 THE NATIONAL WILDLIFE REFUGE SYSTEM MANAGEMENT AND POLICY ACT OF 1993

by

R. Max Peterson, Executive Vice President
International Association of Fish and Wildlife Agencies
August 9, 1994

Thank you, Mr. Chairman, for the opportunity to appear before you today to discuss the National Wildlife Refuge System, and H.R. 833 and companion bill S. 823, the National Wildlife Refuge System Management and Policy Act of 1993. Accompanying me today is Mr. Peter Duncan, Executive Director of the Pennsylvania Game Commission, and a former President of the Association.

As you know Mr. Chairman, the International Association of Fish and Wildlife Agencies was founded in 1902 as a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces, and federal governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in promoting sound resource management and strengthening federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

The Association believes that in spite of some problems the National Wildlife Refuge System, encompassing almost 500 refuges across the Nation, is, in general, a success story that we can all be proud of. The Association's member states fully support consistent, professional, coordinated management of the National Wildlife Refuges. Despite some valid criticism of some activities permitted on individual refuges, the National Wildlife Refuge System has been professionally managed in the past and should continue to be so managed in the future. The Association agrees with the 1968 Leopold report on the National Wildlife Refuge System which declared that "the national refuges should stand as monuments to the science and practice of wildlife management."

As you are aware, Mr. Chairman, the Association has worked over the past year with the Senate Committee staff on S. 823 towards meeting an objective of producing a bill which will be useful to the U.S. Fish and Wildlife Service and Refuge Managers in management of the System, and continue to meet fish, wildlife and habitat conservation objectives while providing for legitimate and appropriate fish and wildlife dependent uses of Refuges by the citizens of the United States.

Our principal concerns with National Wildlife Refuge legislation are that any legislation should meet three objectives. First, recognize the responsibilities and role of the State fish and wildlife agencies and the need for true coordination and cooperation between the U.S. Fish and Wildlife Service and the state fish and wildlife agencies in meeting the conservation objectives of the National Wildlife Refuges. Second, legislative affirmation that where appropriate, fish and wildlife-dependent recreation and environmental education activities are among the purposes of the National Wildlife Refuge System. And, third, an assurance that new processes created for compatibility determination and planning are not so onerous and time consuming that the professional Refuge Manager is engaged and consumed by process, and unable to meet on the ground needs and conservation objectives of fish, wildlife and habitat conservation. In other words, we want refuge managers to concentrate on scientifically sound resource management and not be diverted to managing a mountain of paperwork.

H.R. 833 and S. 823 were virtually identical as introduced in the 103rd Congress. In our opinion, H.R. 833 falls significantly short of meeting the three objectives the Association finds necessary in order to support Refuge legislation. Our analysis of H.R. 833 (and S. 823 a year ago) leads us to conclude that H.R. 833 is not helpful in improving the administration of the National Wildlife Refuge System for the conservation of fish, wildlife and their habitats and the use and enjoyment by the citizens of the U.S.

Having said that, the Association believes that changes made over the last year to S. 823 have significantly improved the bill, and encourage this subcommittee to focus any further consideration of National Wildlife Refuge legislation on S. 823 as recently reported from the Senate Environment and Public Works Committee.

While we still have some concerns about the process for evaluating fish and wildlife dependent recreation and environmental education in S. 823, we are working hard to resolve those concerns with Senator Graham. We believe we can resolve those remaining concerns with S. 823 so that we can support passage of S. 823.

S. 823 as reported, recognizes that the States have broad trustee responsibility for and primacy in the arena of fish, wildlife and their habitats within their borders, and have statutory responsibility for the conservation thereof. State fish and wildlife agencies have concurrent jurisdiction with the U.S. Fish and Wildlife Service for migratory birds, anadromous fish, and threatened and endangered species. As Secretary Babbitt recently told the Senate Environment and Public Works Committee, "...states are the presumptive front-line managers of fish, wildlife and their habitats within their borders".

S. 823 as reported, recognizes that National Wildlife Refuges are important components of and do contribute significantly to the ecosystems in which they are found. However, it is vital to consider the role and relationship with adjacent private and state lands when determining how to meet the conservation objectives for both the Refuge and the ecosystem in which it is found. Cooperation and coordination with the Sate fish and wildlife agencies, most of which have developed statewide, comprehensive fish and wildlife resource

and habitat conservation plans, is thus vital to meeting these objectives.

The Association requests one specific clarifying amendment to S. 823 regarding coordination with the State fish and wildlife agencies. We suggest that, in Section 7, the exemption to the Federal Advisory Committee Act provided for the coordination by the U.S. Fish and Wildlife Service with State fish and wildlife agencies in preparation and revision of Refuge conservation plans, should apply to all aspects of the Federal-State cooperation and coordination regarding National Wildlife Refuges. This should include, but not be limited to, data collection and exchange; review of compatibility determinations; preparation and review of draft, revised and final documents; and discussion/coordination regarding implementation of the Refuge conservation plans.

The Association also concludes that S. 823 as reported, is a good step towards addressing our concerns that the planning and compatibility processes don't become so burdensome that the professionally trained Refuge Manager spends all of his/her time satisfying process. As you are aware, Mr. Chairman, Refuges are seriously underfunded now. Adding processes that are not useful to a Refuge Manager's workload would inhibit or further delay meeting the Refuge conservation objectives for fish, wildlife and their habitats, and providing appropriate fish and wildlife-dependent recreational uses and environmental education for our citizens.

We believe that the process requirements in S. 823 as reported will require additional work by the Refuge Manager. However, we do conclude that they could be useful, and should not become overly burdensome, if addressed appropriately.

Refuge conservation planning is vital, and public input and involvement should be a critical part of that. However, the Refuge Manager should take advantage of existing fish and wildlife surveys and inventories, habitat assessments, comprehensive resource and habitat plans, recreational surveys and impact studies, and other data from the State fish and wildlife agency and other sources to facilitate development of the Refuge conservation plan.

Likewise, written determinations of compatibility of all existing uses of each National Wildlife Refuge, now being conducted in order to satisfy an October 1993 legal settlement with several conservation groups, should obviate the need to redo compatibility determination under S. 823 until significant change to the particular use triggers a re-evaluation. It is important that the passage of any National Wildlife Refuge legislation not require that these compatibility determinations be redone to satisfy a newly created standard developed as a result of passage of the legislation.

Finally, I would like to address the remaining concern that the Association has with S. 823, as reported. That concern is the lack of explicit recognition that fish and wildlife-dependent recreational uses and environmental education are legitimate purposes of the National Wildlife Refuge System, where consistent with principles of sound fish and wildlife management.

It seems clear to us that Congressional intent, as reflected in the relevant legislation and legislative history, has been to establish the primary purpose of the National Wildlife Refuge System as advancing the objectives of fish and wildlife conservation, including providing for, at least in part, fish and wildlife related recreational use in the form of hunting, fishing, trapping, nature observation, enjoyment and education, where such use is compatible with sound fish and wildlife management principles. The 1962 Refuge Recreation Act provided for consideration of other recreational uses if they were compatible with and would not prevent the accomplishment of, the primary purposes for which the areas were acquired or established, this being fish and wildlife conservation and in many cases, hunting, fishing and trapping. The 1966 Refuge Administration Act further gave to the Secretary of Interior the authority to "...permit the use of any area within the System for any purpose, including but not limited to, hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established". In a separate section, the Act authorizes the Secretary to permit other habitat altering uses, such as easements for utilities, roads, ditches, etc., whenever he determines that these uses are compatible with the purposes for which these areas were established.

Indeed, one of the findings of S. 823 is that "Congress finds that the System provides opportunities for individuals to participate in fish-and wildife-dependent recreation, and to learn, understand, and appreciate the value of and need for conserving fish and wildlife, wild lands, and productive ecological communities, types and systems;". We believe that this is a clear statement of Congress' recognition that appropriate fish-and wildlife-dependent recreation and environmental education by our citizens is both important, and necessary to engender public support of the National Wildlife Refuge System.

S. 823 goes on to further assert as a Purpose (of this Act) "to reaffirm the provision of Public Law 87-714 (commonly known as the "Refuge Recreation Act") (16 U.S.C. 460 k et seq.) that authorizes the Secretary of Interior to permit compatible fish-and wildlife-dependent public recreation, such as hunting, fishing and wildlife observation, on refuges;". We conclude, again, that it is Congress' intent to recognize the legitimacy and desirability of these uses, and, to once again, affirm these uses on National Wildlife Refuges where appropriate.

Therefore, we remain perplexed that some groups advocating for this bill are opposed to identifying these uses, when compatible with sound principles of fish and wildlife management, as a purpose of the National Wildlife Refuge System, when it seems clear to us that this has been the intent of Congress from the 1962 Refuge Recreation Act through the deliberations over this bill.

Nonetheless, in the interest of maintaining support for the bill and endeavoring to make progress on it, the Association agreed to legislative recognition of these activities as a "purpose of numerous units within the System" with the proviso that we would continue to work with both Senator Graham and Senator Baucus to ensure that these activities do not get captured in a compatibility standard and process (to be later promulgated by the Secretary) that functionally

eliminates, or could be litigated against to eliminate, these activities from National Wildlife Refuges. To have this happen would be both a disservice to the intent of Congress, and to the anglers and hunters, birders, nature photographers, and those of our citizens who seek to learn more about fish and wildlife via an experience on National Wildlife Refuges.

The remedy we propose, and on which we continue to work with Senator Graham and Senator Baucus, is simply this: to make the compatibility standard and process for fish and wildlife dependent recreation (and environmental education) that which is already codified in the U.S. Fish and Wildlife Service regulations (50 CFR, Part 32). These activities would thus have to meet these tests: (1) they would be conducted in accordance with applicable State and Federal law; (2) they would be compatible with the purpose for which the Refuge was established; (3) they would be consistent with sound scientific principles of fish and wildlife management; and, (4) they would otherwise be in the public interest. We can provide language accomplishing this upon your request, Mr. Chairman.

Fish and wildlife dependent recreation and environmental education, conducted under professional supervision of the Refuge staff, are minimally intrusive activities. The allowable harvest of certain game species is done within the statewide seasons and bag limits provided for by the Federal and State agencies with responsibility for fish and wildlife conservation. Seasons, bag limits, and other harvest restrictions, are regularly reviewed and adjusted to reflect changes in population size, breeding success, habitat conditions, harvest levels, etc.

From the perspective of public review, fishing and hunting activities receive rigorous attention, with several overlaying processes at both the Federal and State level.

Statewide fishing and hunting regulations receive annual review by the State fish and wildlife agencies with extensive opportunity for public input and comment, culminating usually in a series of public meetings and hearings. Some State seasons and bag limits are under General Assembly oversight and thus subject to the process provided for therein.

Federal migratory bird hunting regulations also receive exhaustive public review and scrutiny. Most State fish and wildlife agencies also hold public hearings to assist them in submitting the State recommendations to the U.S. Fish and Wildlife Service for migratory bird hunting. These are, in final form, promulgated as Federal regulations with appropriate publication in the Federal Register throughout the process.

Individual Refuge hunting and fishing programs are reviewed both internally within the Fish and Wildlife Service and with opportunity for public involvement, at all levels from the Refuge to the Washington Office. As indicated earlier, and provided for in the Refuge Administration Act, the regulations permitting hunting and fishing within the System are consistent, as far as practicable, with the State hunting and fishing regulations, providing opportunity for public comment also during that process. Many individual Refuges provide, through public meetings on-site, for public comment and input into propose annual fishing and hunting programs. If these programs are compatible with the purposed for which the Refuge

was established, consistent with principles of scientific fish and wildlife management, and in the public interest, they are forwarded to the Regional Office (U.S. Fish and Wildlife Service) for review and approval. If they receive approval at that level, they are then sent to the Washington Office, for review of adequacy of process, and subsequent publication in the Federal Register. Only then are fishing and hunting programs conducted on specific Refuges.

As you can see, Mr. Chairman, there is indeed adequate reason to treat fish-and wildlife-dependent recreation and environmental education uses differently than other recreational uses (as jet skiing, ORV use, water skiing, etc.) and uses which degrade or destroy habitat (as mineral extraction, utilities rights-of-way, commercial timber harvest, etc.) First, it is consistent with Congress' intent to do so. And, secondly, these activities are minimally intrusive, create little change to habitat, and already receive lengthy and significant public review before they are authorized on Refuges.

As a final comment, I might suggest that you give serious consideration during deliberation on S. 823 to elevating fish-and wildlife-dependent recreation and environmental education to a "Purpose of the System", as opposed to a purpose of numerous units of the System. I think that this would be helpful in answering those who suggest that if we give fish-and wildlife-dependent recreation and environmental education a different compatibility standard than other uses, advocates of the other uses would argue that those uses be considered under that expedited or less onerous standard given to fish-and wildlife-dependent recreation and environmental education. If legislatively identified as a purpose of the System, then that gives more credence to a separate and different compatibility standard for fish and wildlife dependent recreation and environmental education than that which should apply to all other uses (other forms of recreation and commercial uses) which are clearly not purposes of the System.

The Association looks forward to working with you and your Committee on fine-tuning Refuge legislation which can be helpful in administering the National Wildlife Refuge System, and in advancing conservation objectives for fish and wildlife and their habitats, and in providing for appropriate uses by the citizens of the United States.

I would be pleased to address any questions at this time.

GJT\hrct\C:\-REFUGES.TES

National Wildlife Refuge Association
Dedicated to the protection and perpetuation of the National Wildlife Refuge System

TESTIMONY OF WILLIAM C. REFFALT
REPRESENTING
THE NATIONAL WILDLIFE REFUGE ASSOCIATION
BEFORE THE
SUBCOMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
OF THE
HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES
REGARDING
THE NATIONAL WILDLIFE REFUGE SYSTEM

August 9, 1994

Mr. Chairman my name is Bill Reffalt. I am here today as a member of the Board of Directors of the National Wildlife Refuge Association (NWRA), a national organization of refuge management professionals and refuge system supporters. I thank you for this opportunity to testify and urge this committe to pass a National Wildlife Refuge System (NWRS) organic law that builds upon existing refuge law where appropriate while advancing needed policy guidance, protection for System integrity and basic planning direction. Such additions are necessary to enrich the System's capabilities for stewardship of America's fish and wildlife heritage.

My 34 years of professional association with the Refuge System includes over two years as Chief of the Refuge Division in the Washington Office during my 24 years with the U.S. Fish and Wildlife Service (FWS). I originally obtained nine years of field experience on a half dozen western refuges, starting as a Manager Trainee and advancing to the position of Refuge Manager. I served as the Regional Refuge Biologist in Albuquerque and finally worked 11 years in the Washington Office. There, as Special Assistant to the Director, I directed the FWS Alaska planning efforts from 1973 to 1980 within an interagency team that developed proposals for 76 million acres of National Wildlife Refuges and millions of acres of National Parks, Wild and Scenic Rivers, and Forest System Wilderness areas in Alaska.

Following my association with FWS, I worked 8 years as National Wildlife Refuge System Program Director for the Wilderness Society, thereby expanding my experience and knowledge of NWRS and other public land legislation, policies, management practices and problems. Since leaving The Wilderness Society in 1992, I have been actively researching and preparing to write "The Story of America's National Wildlife Refuges" as well as actively working as a member of the Executive Committee of the National Wildlife Refuge Association. My career thereby includes hands-on experience at each level of refuge management within the government plus an extensive background in the overall policy development and administration of U.S. public lands and natural resources.

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25 YEARS OF ADVERSITY

For more than 25 years there has been a continuing stream of reports by Secretarial blue-ribbon committees, the General Accounting Office (GAO), the Fish and Wildlife Service and outside interest groups (see annotated list, Appendix I) documenting that the Refuge System is failing to achieve much of its potential. In the most recent government sponsored studies, the GAO and the FWS found (in 1989 and 1990 respectively) that incompatible, harmful, and inappropriate uses were occurring on over 60% of the refuges.

As early as 1968, in a hallmark report submitted to Interior Secretary Stewart Udall, the "Leopold Committee"[1] described the most inhibiting deficiency of the NWRS as:

> *"[lack of] a clear statement of policy or philosophy as to what the National Wildlife Refuge System should be and what are the logical tenets of its future development."* (emphasis added)

It is an unfortunate fact that as we discuss the needs of the NWRS, over 26 years after disclosure of that basic deficiency and following over twenty-four additional, substantial reports documenting ever-growing NWRS problems, the System continues to suffer from lack of statutory purposes and direction, protective standards, and sound planning requirements.

H.R. 833: A FUNDAMENTAL BUT BOLD MEASURE

Mr. Chairman, H.R. 833 (introduced by Mr. Gibbon and Mr. Synar) is the most straight-forward and opc.ily protective measure among the Refuge System bills now before the Congress. It would remedy the basic deficiencies of current law as just described (see attached Appendix II for further discussion). Each major provision deals with issues related to documented degradation and weakness in the System. It would provide three fundamental needs for the System: Legislated Purposes, Guidance on the Compatibility Standard, and, An Outline for Integrated Planning.
In addition, the bill offers two new authorities:

1) Agencies with concurrent or secondary operating authority **within** refuges would be required to have congressional authority for actions that would impair refuge resources; and,

2) For the first time (as a statutory mandate), the Secretary of the Interior would be required to protect and properly manage the NWRS.

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[1].Leopold, A. Starker, Clarence Cottam, Ian McT. Cowan, Ira N. Gabrielson, and Thomas L. Kimball. 1968. Advisory Committee Report on The National Wildlife Refuge System. Submitted to Interior Secretary Stewart L. Udall on March 11, 1968. Trans NA Wildl & Nat Res Conf (1969); 33:30-53.

Taken as a whole, such measures finally place the NWRS on a par with other federal land systems, thereby representing the kind of bold action suggested in the 1989 GAO report but ignored by the previous Administration.

S. 823: A STARTING POINT

On June 30, 1994, the Senate Environment and Public Works Committee reported out Senator Graham's bill, S. 823. That bill was identical with H.R. 833 when introduced, but has had the benefit of months of negotiations among the interested parties, including representatives of the State game and fish agencies and sportsmen's groups. Thus, many agreements believed necessary to ultimate passage have been incorporated in the reported measure. It represents a good starting point for this Committee, Mr. Chairman.

Importantly, S. 823 builds upon the solid foundation established by this Committee under the leadership of Chairman John Dingell in passing the Refuge Recreation Act in 1962 and the National Wildlife Refuge System Administration Act in 1966. The Senate bill retains most provisions of those laws and extends their meaning and direction in a logical and necessary way to overcome the deficiencies noted over the years. The bill explicitly affirms the provisions of the current refuge laws that permit secondary uses such as hunting, fishing, wildlife observation and other activities so long as they are compatible with the purposes of the refuge.

Our organization strongly supports the continuation of these traditional pursuits on the refuges under the requirements found in the current laws. We also support the inclusion of an allowance for an "expedited compatibility process" to lessen the burden on both FWS and the users for activities on a refuge that have proven to be of little or no impact on the achievement of the refuges primary purposes. However, as shown by the list of uses that were found by the GAO in 1989 to be causing harm on the refuges, one cannot assume that any category of uses will always be compatible in every situation and with changing circumstances. Thus, the compatibility review process developed by FWS should provide for periodic in-depth assessments of al. activities on a refuge to assure that previously compatible uses have not become imcompatible.

Another feature that we believe is vital to sound refuge management in today's world is a sunshine provision for public review and comment on refuge activities and uses. The Senate bill currently would permit elimination of public review for all re-evaluations of refuge uses and activities if such public review had been provided for in the planning process for that refuge. Mr. Chairman, we cannot agree that such a narrowing of public input to refuge management decisions is desirable. Although the expedited compatibility review process may rightly refrain from elaborate public review opportunities, the right of all refuge users and supporters to voice their opinions and concerns about refuge management should be preserved in this bill.

Our other major concerns about the bill as reported by the Senate committee are as follows:

1. Provisions related to activities of other federal agencies that impact refuge resources fail to require that those agencies "avoid, whenever possible" any activity that would impair refuge resources, and that they consult with the refuge manager in a timely manner as a means of avoiding where possible, or minimizing if that is the best outcome that can be achieved.

2. The bill fails to include a provision that federal agency actions inside a refuge where the FWS holds primary jurisdiction are subject to compatibility determinations.

3. On the overlay refuges where FWS has only secondary jurisdiction, we believe that activities by that other federal agency that are not directly related to the purposes of the project should be subject to compatibility and agreed to in the governing MOU. Again, consultation with the refuge manager in a timely manner can usually avoid many situations of harm to refuge resources, even for those activities that must be undertaken as part of the project or agency missions.

3. The current provisions related to highway rights-of-way in the refuges is far too broad and is likely to create serious problems on some refuges. We propose that a definition, developed from the discussion in the Committee report, be inserted in the bill to insure that the intent of this provision is achieved.

4. Provisions related to the Desert National Wildlife Range in Nevada should be improved to insure that the land exchange removes the least amount of refuge lands necessary to meet the demonstrated requirements of the Air Force (with due consideration of refuge wildlife) and that primary jurisdiction over lands having equivalent wildlife and habitat values are provided to the Refuge System, preferably adjacent to the refuge or in Nevada.

Mr. Chairman, with these changes and a few other desirable adjustments, the bill would become a hallmark of conservation legislation. I have included as Appendix III of my testimony a list of retired refuge personnel that support a strong NWRS Management and Policy Act. This list is but an example of the support from past land management professionals of the FWS that could be compiled if time permitted.

America's National Wildlife Refuge System has accomplished many noteworthy things in its 91 year history, in spite of the numerous problems that we all know exist. But, if it is to achieve its enormous potential and assist this nation in averting severe losses of our nation's wildlife and habitats in the future, it must have the new strengths that this measure can

provide. We believe the time has come for this organic act and we seek your help and leadership to make it happen. Thank you, Mr. Chairman, I would be happy to respond to your questions.

Appendix I

MAJOR REPORTS REGARDING THE NATIONAL WILDLIFE REFUGE SYSTEM
1994-1968
(along with selected quotes from the reports)

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1. Fink, Richard J. 1994. *The National Wildlife Refuges: Theory, Practice, and Prospect.* Harvard Environmental Law Review Vol. 18(1), 135pp.

   "Although the NWRS alone cannot protect the nation's wildlife, refuge lands, and waters, its managers can play a critical role in the future. **Recently proposed federal legislation, particularly Senate Bill 823 and House Resolution (*sic*) 833, would make important, constructive changes in the management of the NWRS.** Nevertheless, the proposed legislation is insufficient and can be improved." (p. 135)

2. National Wildlife Refuge System Management and Policy Act. 1993. Hearing before the Subcommittee on Clean Water, Fisheries and Wildlife of the Committee on Environment and Public Works on S. 823. U.S. Senate, Wash., D.C., June 9.

3. National Wildlife Refuge System Management and Policy Act. 1992. Hearing before the Subcommittee on Environmental Protection of the Committee on Environment and Public Works on S. 1862, U.S. Senate, Wash., D.C. June 19.

4. *Putting Wildlife First.* 1992. Report of the Commission on New Directions for the National Wildlife Refuge System. Commissioned by Defenders of Wildlife, Wash., D.C. 36 pp, (March).

   "The [National Wildlife Refuge] System urgently needs reform. We **recommend swift congressional action on an organic act for the nation's federal refuges.** This act must set forth a clear, comprehensive, and far-sighted mission for refuges.... It must have congressional backing for a tighter process of screening proposed secondary refuge uses that threaten refuge functions. Congress must require and support much improved planning and a coherent, expanded research program on federal wildlife refuges.... There is a chance--a good chance, we believe--to make the refuge system serve the nation more effectively in preserving our biological heritage for the use and enjoyment of all...." (pp 24-25; emphasis added)

5. *Status of Efforts to Improve the Management of the National Wildlife Refuge System.* 1991. Hearing before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Merchant Marine and Fisheries Committee. U.S. House of Representatives, Wash., D.C., March 21.

6. Mitchell, John G. 1991. *You Call This a Refuge?* in *Wildlife Conservation*. New York Zool Soc, NY, Vol 94(2):70-93 (March/April).

"If you're like most Americans, you imagine our wildlife refuges as pristine, protected habitats, but this is hardly the case." (p 1)

7. U.S. Fish and Wildlife Service, Compatibility Task Group. 1990. *Report To The Director: A Review of Secondary Uses Occurring on National Wildlife Refuges*. FWS, (June); This report, although provided to the Director in June of 1990, was held by FWS and not published or made public until March of 1991.

"Incompatible and harmful uses are occurring on many national wildlife refuges...[and] managers reported 836 use occurrences as being harmful to refuge operations."(pp 10 and 211; emphasis added)

Survey results showed 63% of refuge units with one or more harmful use.(various tables throughout document)

"In nearly all cases where FWS does not hold fee title to the land, many activities occur that adversely affect the refuge..." (p 213; emphasis added)

"The legal purpose(s) of refuges are not clearly defined for every unit of the National Wildlife Refuge System. **With the exception of refuges in Alaska, few refuge units have clearly articulated purposes, or refuge purposes are too narrowly defined."** (p 214; emphasis added)

"Refuge management goals and objectives designed to carry out refuge purpose(s) are not consistently and adequately expressed for all units of the National Wildlife Refuge System. In addition to refuge purposes, each refuge should have approved goals and objectives. **These specific goals and objectives should be established through a planning process.** Such planning will help ensure better control of potential incompatible and/or harmful uses." (p 214; emphasis added)

"Adequate biological data is frequently lacking for making an accurate assessment of the specific and cumulative impacts of refuge uses for determining their compatibility with refuge purpose(s)." (p 215; emphasis added)

"FWS should seek legislation that would better define the purpose(s) of the units of the Refuge System." (p 214; emphasis added)

8. U.S. Department of the Interior. 1990. Office of Inspector General Audit Report: *Refuge Contaminants*, U.S. Fish and Wildlife Service. Report No. 90-74.

"The Service has not developed a program to effectively identify, resolve, and monitor refuges for contaminants...and cannot assess the...contamination, establish refuge baseline conditions from which to measure future changes, or ensure that present situations do not become future issues of concern."

"Although it is known that contaminants both on or near refuges have killed thousands of wildfowl, the Service presently lacks the programmatic capability to determine and address the extent of the problem."

9. *Review of the Management of the National Wildlife Refuge System.* 1989. Joint hearing before the Subcommittee on Environment, Energy, and Natural Resources of the Government Operations Committee, and the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Merchant Marine and Fisheries Committee. House of Representatives, Sept. 12

10. General Accounting Office. 1989. *National Wildlife Refuges: Continuing Problems With Incompatible Uses Call For Bold Action.* GAO/RCED-89-196; (Sept).

"National Wildlife Refuges are frequently not the pristine wildlife sanctuaries implied by their name.... Moreover, despite the requirement that only compatible secondary activities be permitted, refuge managers report that activities they consider harmful to wildlife resources (such as power boating and off-road vehicles) are occurring on nearly 60% of the wildlife refuges."(p 3)

11. *Ten Most Endangered National Wildlife Refuges.* 1988. The Wilderness Society, Wash., D.C., 25 pp., (October).

"Because so many refuges are seriously threatened, selecting the ten that are in the deepest trouble was not easy. Compounding the difficulty was the very limited amount of research carried out by the U.S. Fish and Wildlife Service, the Interior Department Agency that oversees the refuges" (p 1)

"To ease the threats facing the national wildlife refuges, we propose a five-point plan:
"1) Congress should pass an organic act that would spell out the goals and philosophy of the national wildlife refuge system...." (p 2)

12. *Survey: Compatibility Issues on the National Wildlife Refuge System.* 1988. The Wilderness Society, Wash., D.C. 14 pp., (May).

"In April 1987, The Wilderness Society asked 75 refuge managers to complete a questionnaire focused on the 'compatibility standard' on refuges. Compatibility is understood by the majority of respondents to mean that a proposed activity or use is compatible if it 'does not adversely affect the refuge fish, wildlife, or habitats' (64%)." (Transmittal letter to managers)

13. General Accounting Office. 1987. *Wildlife Management: National Refuge Contamination is Difficult to Confirm and Clean Up.* GAO/RCED-87-128; (July)

14 & 15. U.S. Fish and Wildlife Serv. Sept. 1985 & Apr. 1986. *Survey of Contaminant Issues of Concern on National Wildlife Refuges.* Div. Refuge Mgt.

"The list identifies 78 contaminant issues of concern on 85 refuges."(p 6)

"[P]otential impacts are often magnified by large wildlife concentrations or unique species that rely on a particular refuge."(p 9)

16. General Accounting Office. 1984. *Economic Uses of the National Wildlife Refuge System Unlikely To Increase Significantly.* GAO/RCED-84-108; (June 15).

"GAO found that the expansion levels estimated by the Department are unlikely to be fully realized for several reasons relating to demand for these activities, other refuge priorities, and the personnel resources available to implement an expansion policy."(cover: Exec. Summ.)

"GAO found that FWS has very little data on the nature and extent of ongoing oil and gas operations on wildlife refuges. As a result, FWS cannot assess their impacts or judge the likely effects of increased development."(p iii)

17. Special Issue, *The Wildlife Refuges.* 1983. in *Wilderness*, The Wilderness Society, Wash., D.C., Vol 47(162):2-35.

"Though overshadowed in the public mind by more conventional parklands, the National Wildlife Refuge System is rich with an unparalleled abundance of life--and embraces more land than the National Park System." (p 1)

"Shorn of a clear identity and possessed of no strong constituency, the refuge system is administered in a confusion of politics, power, and purpose." (p 1)

The Wilderness Society, 1983, continued:

"Many wildlife refuges are beset by a multitude of uses and outside pressures which threaten their fragile integrity." (p 1)

"Many of the problems now affecting the refuge system have reached the level of urgency; others have the potential for future degradation of the resource. And, of all the recommendations The Wilderness Society offers here, none is more important or inclusive than the call for passage of an 'organic' act designed specifically for the National Wildlife Refuge System, a single, comprehensive piece of legislation that, for the first time, would provide overall guidance for present and future management and use of refuge lands." (p 32)

18. U.S. Fish and Wildlife Service. 1983. *Fish and Wildlife Service Resource Problems: National Wildlife Refuges, National Fish Hatcheries, Research Centers*. FWS, USDI, (July).

19. Doherty, Jim. 1983. *Refuges on the Rocks*. in *Audubon*, National Audubon Society, Vol 85(4):74-116.

"The original reason for the refuges--to protect wildlife--seems secondary today. And now, as Doherty reports, 'the system is in the hands of a development-oriented administration that seems determined to wring out every last dollar it can." (p 4)

"The conspicuous uneasiness with which the refuge people in the field comport themselves these days--call it circumspection, call it fear--is disconcerting to say the least. People are afraid to say what they think--afraid, even, to simply *think* it. When honest dissent is so dramatically repressed, how can it be said that our government is working at all?" (p 6)

20. U.S. Fish and Wildlife Service. 1982. *Field Station Threats and Conflicts: National Wildlife Refuges, National Fish Hatcheries, Research Centers*. FWS, (August).

"[R]efuges averaged about twice as many threats per station as did fish hatcheries and research laboratories due primarily to their wider-ranging activities in wildlife resource protection and management. These threats will continue to degrade certain fish and wildlife resources until such time as mitigation measures are implemented. In some cases, this degradation or loss of resource is irreversible. It represents a sacrifice by a public that, for the most part, is unaware that such a price is being paid."(p 42)

21. General Accounting Office. 1981. *National Direction Required for Effective Management of America's Fish and Wildlife*. CED-81-107 (August 24).

"Effective management of the National Wildlife Refuge System has been limited because [Fish and Wildlife] Service has not provided needed guidance."(p ii)

"However, local pressures to use refuge lands for such benefits as grazing, timber harvesting, and public recreation prevent refuge managers from effectively managing refuges primarily for wildlife."(p 28)

"54 percent of the refuges are not being adequately operated and maintained ...[& there is a backlog]...in new development & rehabilitation projects."(p 33)

22. National Wildlife Refuge Study Task Force. 1979. *Final Recommendations On The Management of the National Wildlife Refuge System*. U.S. Fish and Wildlife Service, Department of the Interior, GPO, DC, April.

"Grazing, timber harvesting and agricultural practices on refuges may be abusive and should be used only when necessary for proper management of wildlife resources, keeping in mind the desirability of maintaining natural ecosystems."(p 9)

"Refuges are for wildlife and utilization by people should at no time be detrimental to wildlife resources."(p 11)

"Increased [manpower and money] must be made available to the refuge system so that public use can be planned for and accommodated to the fullest extent consistent with the [purposes] of each refuge and the Refuge Recreation Act of 1962...."(p 12)

"Pressures to develop or degrade refuges for economic gain are growing exponentially. As costs rise or availability of natural resources declines, developers cast increasingly longing eyes on resources in refuges. Energy is probably the most notable case in point...a clamor has grown to hasten development of energy.... In some cases this has been translated as a mandate for development regardless of ensuing environmental consequences. This philosophy and approach should not be applied to the refuge system."(p 59)

23. Defenders of Wildlife. 1977. *A Report on the National Wildlife Refuge System.* Wash., D.C., 83 pp.

Survey of conditions on refuges; "...describes a system of decaying buildings, crumbling dikes, antiquated equipment, and discouraged civil servants." (p 1)

24. National Wildlife Refuge System Advisory Board on Wildlife Management. 1968. *Report on The National Wildlife Refuge System.* Report to Secretary Stewart L. Udall; A. Starker Leopold, Chairman.

"[W]hat is still lacking is a clear statement of policy or philosophy as to what the National Wildlife Refuge System should be and what are the logical tenets of its future development."(p 3)

"We concur with the policy statement of the Fish and Wildlife Service that recreation on the refuges should in all cases be secondary to the primary purpose of management for wildlife enhancement, and under no circumstances should general recreation be permitted to interfere with this primary dedication."(p 20)

"Unfortunately, the proximity of urban masses leads inevitably to pressure for larger picnic grounds, camping facilities, improved swimming beaches, motorboat marinas, water skiing, bridle paths, target ranges, and other assorted forms of play which are only obliquely related to refuge purposes."(p 21)

"However carefully refuge sites may be selected, the lands are forever subject to invasion by government agencies with higher rights of eminent domain, such as military services, Atomic Energy Commission, Corps of Engineers, Bureau of Reclamation, and Bureau of Public Roads. After a refuge is acquired and developed, it often has to be defended."(p 25)

Following is a brief description of the need, as seen by the National Wildlife Refuge Association, for each major provision of H.R. 833:

I. Refuge Purposes

Even though the Leopold Committee reported this fundamental deficiency over 25 years ago, the National Wildlife Refuge System still has no statutory mandate to guide its administration. In essence, the System operates on the basis of what *it* believes is in the best public interest or, more often, on the basis of what the appointees of each administration believe represents their mandate. Management continuity and long-term fish and wildlife needs are often subordinated to demands for "responsiveness". Lack of a congressional mandate (*i.e.* system purposes) is akin to lack of an identity. We believe it is essential that the World's most comprehensive habitat management system for wildlife conservation be given a clear statutory mandate.

II. Refuge Compatibility

Established as the basic standard for allowing uses of refuge lands and resources by the 1966 NWRS Administration Act, compatibility, as shown by the 1989-90 GAO and FWS studies, remains an elusive concept on most refuges. Chairman Graham's Bill requires FWS to develop, by a rulemaking, a consistent and documented procedure for making determinations of compatibility. Because many refuges or important parts of refuges lack explicit establishing purposes trying to determine compatibility is moot. H.R. 833 solves the problem by linking compatibility determinations to Refuge System purposes in addition to the existing refuge purposes. Thus, no parcel of a refuge will suffer the lack of a basic purpose against which to gauge compatibility of proposed uses, while units with purposes will continue to be managed to achieve those expressed goals. These new elements will supply field station managers with tools they lacked in the past to insure that uses of refuges remain fully compatible with the fish, wildlife and habitats for which refuges exist.

H.R. 833 also provides that if the manager does not have adequate information upon which to determine compatibility, the use shall not be allowed. Too often in the recent past the managers have felt pressured to permit uses unless/until they had concrete evidence that the proposed use or activity would "materially interfere" with refuge purposes. Given the level of staff and funding for the NWRS that pressure, more often than not, meant that the use would be permitted. H.R. 833 returns the standard to one of not permitting a use unless/until it is known to be compatible, which is what Congress intended in the first place.

III. Refuge Planning:

Another fundamental deficiency of the Refuge System, according to the Leopold

Committee in 1968 (and others since then), is the opportunistic manner of its growth and development. And, as with the absence of overall NWRS policy, this deficiency has yet to be addressed. Individual refuge unit long-range planning and Refuge System planning are especially important for developing integrated management approaches for migratory species and populations that use several or many individual refuge units along the north-south "chain of refuges" established for and required by these species during their annual cycles. Further, with so much habitat fragmentation occurring in the nesting areas and other major habitats of temperate North America, planning is essential to maintain the protected portions of the ecosystems on which this Continent's natural diversity depends. Long-range planning in refuges will allow the managers to get ahead of the compatibility issue by looking and thinking ahead. In short, planning in the Refuge System will help on many fronts, but fundamentally it remains untenable to manage the NWRS as a System until it is planned to be managed as a System.

IV. Avoiding Impairment of Refuge Resources

A major feature of H.R. 833 is the provision regarding other agency activities within refuges. The record shows these agencies having strong general authority from the Congress, such as the Corps of Engineers, Bureau of Reclamation and military departments, often pay little heed to refuge fish and wildlife needs when planning their activities. H.R. 833 would stop that practice and bring such agencies to a negotiating table with the Refuge Managers if their intended actions would impair refuge resources.

Experience has shown that these agencies nearly always could have accomplished their objectives with far less detrimental effect upon the refuge fish, wildlife and habitats. It would be seldom, if ever, a matter of stopping activities by these agencies, but rather, having the activities redesigned in ways that consider refuge wildlife purposes and needs. After all, these activities will occur inside National Wildlife Refuges.

V. Mandate For Interior To Protect The System

In addition to giving the Refuge System a set of purposes and requiring that FWS design and implement a biologically sound compatibility determination process, H.R. 823 establishes a solid mandate for the Secretary of the Interior to protect the NWRS, ensure that its purposes are carried out. The absence of such an affirmative responsibility in the past has contributed to actions not fully in support of refuges.

Appendix III

EXAMPLES OF RETIRED USFWS/NATIONAL WILDLIFE REFUGE SYSTEM PERSONNEL SUPPORTING A STRONG NATIONAL WILDLIFE REFUGE SYSTEM MANAGEMENT AND POLICY ACT

Northeast Region

Richard E. Griffith (Washington, NH)
Former Regional Director/FWS Region 5

William C. Ashe (Sudbury, MA)
Former Deputy Regional Director/FWS Region 5

Gaylord Inman (Pleasantville, NJ)
Former Refuge Manager/Brigantine NWR (NJ) & Desert NWR (NV)

Gordon T. Nightingale (Marshfield, MA)
Former Refuge Manager/Killcohook NWR (NJ & DE)

Edwin H. Chandler (Fuquay-Varina, NC)
Former Refuge Manager/Moosehorn NWR (ME) & Missisquoi NWR (VT)

Clyde L. Bolin (McCook, NE)
Former Special Law Enforcement Agent/17 years-Ninigret NWR (RI)

Southeast Region

Marcus C. Nelson (Annandale, VA)
Former Chief, Division of Refuges

William C. Reffalt (Herndon, VA)
Former Chief, Division of Refuges

Dennis F. Holland (Chincoteague, VA)
Former Refuge Manager/Chincoteague NWR (VA)

Midwest Region

Forrest A. Carpenter (Prior Lake, MN)
Former Regional Refuge Supervisor/FWS Region 3

Charles A. Hughlett (Denver, CO)
Former Deputy Regional Director/FWS Region 3

Richard E. Toltzmann (Manitowoc, WI)
Former Regional Refuge Supervisor/FWS Region 3

Midwest Region, continued

Donald V. Gray (Winona, MN)
Former Refuge Manager/Upper Mississippi River National Wildlife and Fish Refuge (MN,WI,IA,IL)

William E. Green, Ph.D. (Winona, MN)
Former Area (MN,OH,WI,IL,MO,IA,MI) Biologist stationed at the Upper Mississippi River Refuge

Edward S. Crozier (Burnsville, MN)
Former Refuge Supervisor for 20 refuges and wetland districts in MN, MI & WI; former manager of Minnesota Valley, Mark Twain & Tewaukon refuges and chief of the National Planning Team

Southwest Region

Lawrence S. Smith (Albuquerque, NM)
Former Refuge Manager/Montezuma NWR & Iroquois NWR (NY)

Russel W. Clapper (Anahuac, TX)
Former Refuge Manager of the Anahuac NWR (TX)

Rocky Mountain Region

Ralph F. Fries (Billings, MT)
Former Refuge Manager/Charles M. Russell NWR (MT)

Robert Ballou (Charlo, MT)
Former Assistant Area Manager for Refuges (WY & MT)

Robert L. Means (Lander, WY)
Former Refuge Manager/National Elk Refuge & Seedskadee NWR (WY)

Pete Carter (Payette, ID)
Former Assistant Area Manager for Refuges (ID & NV)

Chuck Peck (Pocatello, ID)
Former Refuge Manager/Southeast Idaho NWR Complex (ID)

Pacific Region

Roger Johnson (Alturas, CA)
Former Refuge Manager/Klamath Basin NWR Complex (CA)

Ed Collins (Granite Bay, CA)
Former Refuge Manager/Sacramento NWR Complex (CA)

Pacific Region, continued

Richard S. Rodgers (Boring, OR)
Former Director/Refuge Management Training Academy
Former Refuge Manager/Crescent Lake NWR (NE)

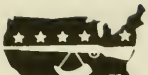
Jack R. Helvie (Wilsonville, OR)
Former Refuge Manager/Sacramento River NWR (CA) & Desert NWR (NV)

Jack Waddell (Vancouver, WA)
Former NWR District Supervisor

Jim Monnie (Stevenson, WA)
Former NWR District Supervisor

Calvin J. Lensink, Ph.D. (Anchorage, AK)
Former Refuge Manager of the Yukon Delta NWR (AK) & recognized
Ak research biologist

Louis S. Swenson (Fairbanks, AK)
Former Refuge Manager/Yukon Flats NWR (AK), Sand Lake NWR (SD),
Long Lake Complex (ND) & Wetland Manager/Fergus Falls (MN)



THE WILDLIFE LEGISLATIVE FUND OF AMERICA
To protect the Heritage of the American Sportsman to hunt, to fish and to trap.

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Statement of
Mr. William P. Horn
National Affairs Director and Washington Counsel of
The Wildlife Legislative Fund of America
Before the
Subcommittee on Environment & Natural Resources
Committee on Merchant Marine and Fisheries
U.S. House of Representatives

August 9, 1994

Mr. Chairman. On behalf of the Wildlife Legislative Fund of America (WLFA), I appreciate the invitation to appear today and present our views on legislation affecting administration of the National Wildlife Refuge System (NWRS).

The WLFA is an association of sportsmen's conservation organizations established to protect the heritage of American sportsmen to hunt, fish, and trap. Through its associated organizations, the WLFA represents an aggregate membership of more than 1.5 million sportsmen-conservationists.

The NWRS has a long and distinguished history as an institution for conservation. In 1903, when Teddy Roosevelt established the first Refuge at Pelican Island, he and fellow conservationists envisioned a network of Federal lands to specifically benefit wildlife. Since its early beginnings, the NWRS has effected the conservation of our nation's most valuable natural resources. Today, wildlife on the NWRS is thriving — a tribute to the vision of America's conservation movement.

Wildlife related recreation on the NWRS is also thriving. Fully compatible hunting and fishing activities occur on over 260 units of the System and migratory bird hunting occurs on nearly one-third of the NWRS units. Hunters log over one million visits annually to the System. These public Refuge lands play a critical role in providing fishing and hunting opportunities to America's anglers and hunters.

We are deeply concerned that proposed legislation, including H.R. 833 and S. 823, seeks to create a new complicated bureaucratic edifice that will adversely impact the wildlife conservation goals of the NWRS. Substantial personnel and budgetary resources would be diverted to comply with extensive new planning and finding processes established by these

bills — resources which would be better spent on-the-ground for wildlife management and conservation.

The apparent purpose of these bureaucratic obstacles is to make it very difficult to authorize so-called "secondary" uses on Refuge units. Proponents appear to believe that this is the only way to terminate uses that are clearly incompatible but politically entrenched. The WLFA applauds efforts to tighten restrictions on incompatible non-wildlife related uses of the NWRS, but objects strongly to interposing the same procedural obstacles to traditional wildlife related uses including fishing, hunting, and trapping. We have every reason to fear that these restrictions will be employed to block important fishing and hunting programs on the NWRS.

A fundamental problem is the inclusion of wildlife related recreation as a secondary use with such contrastingly divergent activities as military overflights, grazing, mining, oil and gas production, and non-wildlife related recreation (e.g., jet skiing). The establishment of barriers to block these uses will inevitably become barriers to fishing, hunting, and trapping programs.

Refuge "reform" bills will continue to encounter hostility from the sporting community until fishing and hunting are fully recognized as legitimate forms of wildlife recreation compatible with the purposes of the Refuge system. Moreover, sportsmen and sportswomen deserve recognition for having been America's foremost wildlife conservationists and a financial mainstay of the System for more than half a century. They deeply resent being treated like interests that can constitute a threat to the System. When they have endeavored to ensure sustainable and healthy wildlife populations throughout the System and elsewhere.

There is a solution that would enable the WLFA — and other elements of the traditional wildlife conservation community — to aggressively support "reform" legislation. A measure that included (1) clear findings that wildlife related recreation is a purpose of the NWRS, (2) express statutory recognition that fishing and hunting are fundamentally compatible with the wildlife conservation purposes of the NWRS, and (3) creation of a hierarchy that subjects approval of wildlife related recreation to less stringent standards and procedures, as compared to other secondary uses, could receive our enthusiastic endorsement. We are ready and willing to work with this Subcommittee to craft language to implement these key concepts.

The fundamental flaw of H.R. 833 and S. 823 is that they put wildlife related recreation and the sporting community on the wrong side of extensive new bureaucratic obstacles. If we fail to clear those obstacles, traditional fishing and hunting programs on the NWRS will be terminated. Our specific concerns with these bills are outlined below:

- **Compatibility determinations must be made pursuant to a highly formalized administrative process, in writing.** In an era of budget cutbacks and strapped

resources, when the U.S. Fish and Wildlife Service's (FWS) Director is ordering that certain units not be managed at all, this bill proposes to add layers of costly administrative requirements. The current system provides the FWS ample authority to ensure compatibility and terminate inappropriate uses. The saying goes "if it ain't broke, don't fix it." The FWS has the legal tools it needs, and the System "ain't' broke." Complicated new provisions and procedures are wholly unnecessary.

- **The Secretary must detail the time, duration, location, manner, and purpose of use.** The requirement for the Secretary to specifically detail the time, duration, location, manner, and purpose of use removes the flexibility of Refuge managers to adapt uses as is optimal for their unit. Refuge managers are in the best position to know the needs of their Refuge and what uses and loads they can bear. If the time, duration, etc., of a use must be exactingly specified, the Refuge manager will have virtually no flexibility to adapt to changing conditions on the ground. Thus, uses may be dangerously perpetuated or terminated unnecessarily without reference to the condition of the individual Refuge.

- **Avoid, minimize, and compensate for adverse effects resulting from actions authorized by the Agency.** This requirement, in a rewrite of S. 823, is an appropriate response to filling a wetland as provided for in the existing § 404 wetlands program, not for authorizing fishing, hunting, or any other compatible use in a Refuge. The language and structure designed for wetland protection is misplaced in management of uses on Refuge units. Adding a tiered response mechanism that requires the FWS to avoid, minimize, and compensate for use effects adds little to wildlife conservation and simply will create more paperwork and attendant administrative delays.

- **A use must be expeditiously terminated if it is not determined to be compatible.** The wording of this provision will likely ensure that many existing uses will be terminated. As previously stated, the piling on of new administrative requirements will cause innumerable delays in the compatibility determination process. Uses without affirmative compatibility determinations will be required to be terminated. This could result in the elimination of many legitimate and compatible uses merely because of administrative delay. This result — in the case of fishing and hunting — conflicts directly with the purposes of the National Wildlife Refuge Recreation Act.

Thank you again for the opportunity to appear today and present our views on this important issue. The WLFA looks forward to working with the Subcommittee to find ways to improve the administration of the NWRS and maintain fishing and hunting opportunities on these important public lands.

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TESTIMONY OF PETER A.A. BERLE
PRESIDENT
NATIONAL AUDUBON SOCIETY

ON BEHALF OF

THE WILDERNESS SOCIETY • DEFENDERS OF WILDLIFE
NATURAL RESOURCES DEFENSE COUNCIL
TROUT UNLIMITED • ENVIRONMENTAL DEFENSE FUND
INTERNATIONAL COUNCIL FOR BIRD PRESERVATION - U.S. SECTION

REGARDING S. 823 AND H.R. 833
THE NATIONAL WILDLIFE REFUGE SYSTEM MANAGEMENT AND POLICY ACT

BEFORE THE SUBCOMMITTEE ON
ENVIRONMENT AND NATURAL RESOURCES
OF THE
HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE
AUGUST 9, 1994

Mr. Chairman and members of the Subcommittee, I appreciate this opportunity to testify before you on an issue of such high priority to our 600,000 members and of such importance to the future of our nation's fish and wildlife. This testimony is also offered on behalf of The Wilderness Society, Defenders of Wildlife, Environmental Defense Fund, Natural Resources Defense Council, Trout Unlimited, and the International Council for Bird Preservation — organizations with a long-standing commitment to the well-being and sound management of the National Wildlife Refuge System and close working relationships with the real heros of the Refuge System: the dedicated refuge professionals in the field. Several of these organizations would like an opportunity to submit separate statements for the hearing record.

Our organizations appreciate your continued interest and leadership on this issue, Mr. Chairman, and the inspired leadership of Congressman Gibbons, Congressman Synar and Senator Graham. We strongly support the National Wildlife Refuge System Management and Policy Act introduced by Congressmen Gibbons and Synar and Senator Graham. With the important modifications articulated in this testimony, we also strongly support the bill as amended by the Senate Environment and Public Works Committee. The bills before this Committee represent important amendments to the National Wildlife Refuge System Administration Act — legislation championed nearly thirty years ago by Congressman John Dingell that put into law the principle that secondary uses of refuges must be compatible with the needs of wildlife. The National Wildlife Refuge System is an unparalleled national treasure that desperately needs and richly deserves this comprehensive legislation to articulate its mission, protect its resources, and plan for its future.

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Although the current leadership of the Department of the Interior has taken steps to improve the stewardship of the Refuge System, we continue to believe that passage of refuge legislation is long overdue and cannot come a moment too soon. Without the direction and authority embodied in this legislation, we are concerned that the Refuge System will continue adrift. The National Park Service, U.S. Forest Service, and Bureau of Land Management all have comprehensive "organic" legislation that define their purposes and provide direction for their programs. The bills before the Committee would supplement the Refuge Administration Act of 1966 and in so doing would provide such organic legislation for the National Wildlife Refuge System.

THE REFUGE SYSTEM IS AN UNPARALLELED NATIONAL TREASURE

The National Wildlife Refuge System is the only network of federal public lands that have been established specifically to conserve fish and wildlife. The National Wildlife Refuge System covers 91 million acres and includes units in all 50 states and several U.S. territories. Extending from arctic Alaska to the subtropical Florida Keys, the Refuge System is the most diverse network of protected lands anywhere in the world. The System has a long and successful tradition of conserving wetlands and contributes significantly to the conservation of America's native forests, prairies, tundra, desert, and marine communities. We understand that later this week the Fish and Wildlife Service will purchase the first tract of land for the new Canaan Valley National Wildlife Refuge in West Virginia, an historic event that will mark the establishment of the 500th refuge in the system.

Over 175 threatened and endangered species spend at least part of their life cycles on national wildlife refuges along with at least 350 species that are candidates for such listing. Refuges form the core of recovery efforts for many endangered and threatened species — from the Key deer to the whooping crane to the devil's hole pupfish to dozens of threatened and endangered plants. They protect critical breeding, stop-over and wintering areas for waterfowl, shorebirds, songbirds and other migratory species. Refuges also provide exceptional opportunities for environmental education and have served as valuable laboratories for scientific inquiry and discovery.

The Refuge System also provides important opportunities for people to engage in forms of recreation that are dependent on the presence of fish and wildlife, such as hunting, fishing, bird watching, and nature photography. For example, hunting currently occurs on roughly half of the nation's refuges. Such activities provide experiences through which the American public can develop an appreciation for fish and wildlife. Under the terms of the 1966 Refuges Administration Act these "wildlife-dependent" activities are considered appropriate uses of refuges where they are adequately reviewed and managed to ensure that they are compatible. They will continue to be appropriate under the bills now before the Congress.

Our organizations support this legislation because we believe that the Refuge System has the potential to accomplish significantly more on these fronts but it needs the direction, support, and mandate to do so. H.R. 833 and S. 823 will allow the Fish and Wildlife Service to get beyond its nagging problem with incompatible uses and improve refuge planning and inter-agency coordination.

THE REFUGE SYSTEM HAS BEEN UNDERMINED BY INCOMPATIBLE USES

The National Wildlife Refuge System's great potential to conserve the nation's species and natural communities has been seriously undermined by economic, recreational and a wide array of other activities that harm fish and wildlife populations and habitat and divert scarce resources away from important management and protection programs.

Under the leadership of Congressman Dingell, Congress recognized that unregulated uses can undermine a refuge's ability to conserve wildlife and passed two important statutes to govern uses in the Refuge System. The second of these laws, the National Wildlife Refuge System Administration Act of 1966, authorized the Secretary of the Interior to allow secondary uses of national wildlife refuges only after determining that they are compatible with the purposes for which the refuges were established. Unfortunately, that legislation did not describe a process by which the Service is to evaluate the compatibility of refuge uses. The Fish and Wildlife Service has undermined its implementation of the compatibility requirement by adopting an unworkable and overly vague definition of the term "compatibility." As a result, the decision of whether or not to allow a use on a particular refuge has often been made without any review by the concerned public, and been based as much or more on political considerations as it has on science and principles of sound fish and wildlife management.

The Service's problems with "compatibility" have been well documented. Reports by the General Accounting Office, the Department of Interior and Fish and Wildlife Service, and special task forces chartered by government agencies and conservation organizations have been cited many times before in congressional hearings (see Appendix for selected findings from these reports).

Problems with incompatible uses on refuges are legion. High powered jet boats, jet skis and water skis harass and kill herons, pelicans, geese and other migratory birds; over-grazing damages habitat and undermines waterfowl production; off-road vehicles trample nests and displace wildlife; and military jets scream over refuge lands and waters. In 1992, several of our organizations filed suit to stop such activities. The current administration settled the litigation and is working to resolve many of these problems. The administration shares our view that comprehensive amendments to the underlying law are essential if the Refuge System is to get beyond its problems with compatibility and meet its potential to conserve fish and wildlife.

LEGISLATION TO RESTORE INTEGRITY TO THE REFUGE SYSTEM

The Refuge Administration Act formally established the Refuge System by assembling various lands and waters under the control of the Fish and Wildlife Service. But unlike for the lands administered by the National Park Service, U.S. Forest Service, and Bureau of Land Management, Congress has not passed a true "organic" statute for the National Wildlife Refuge System — a law providing clear policy direction, planning requirements, and affirmative responsibilities for senior governmental officials. The legislation introduced by Congressmen Gibbons and Synar, and Senator Graham's bill as marked-up by by the Senate Environment and Public Works Committee, offer real hope to address these shortcomings and restore integrity to our magnificent, but troubled, National Wildlife Refuge System. The amended Senate bill would:

- clarify the purposes for the National Wildlife Refuge System;
- establish a formal process to ensure compatibility of refuge uses;
- require preparation of comprehensive plans for the administration of the Refuge System;
- improve individual refuge planning;
- require other agencies to minimize and mitigate the negative effects on refuges that may result from their actions; and
- provide the Secretary of Interior with affirmative duties to protect the Refuge System.

Below we address the specific provisions of the amended Senate bill, S.823 as reported.

Purposes for the National Wildlife Refuge System

The National Wildlife Refuge System is the only public lands system that lacks a clear legislative statement of mission and purposes. The policies and directions of the National Park Service, U.S. Forest Service, and Bureau of Land Management have been spelled out in these agencies' comprehensive "organic" legislation. Both bills before the Committee would provide, for the first time, a clear statement of purpose for the Refuge System.

The Refuge System purposes contained in the amended Senate bill have been carefully reworded to address concerns raised in a hearing before the Senate Environment and Public Works Committee. The precise wording of these purposes was negotiated down to the last comma.

The amended Senate bill recognizes that many refuges have been established for specific purposes, such as the conservation of a particular endangered species or migratory birds. It also recognizes that the purposes of some refuges include providing opportunities for compatible fish and wildlife-dependent recreation. The Refuge System purposes created by this bill would not replace these specific refuge purposes. Rather the new Refuge System purposes

would supplement these traditional purposes with a new directive to conserve the broad spectrum of fish and wildlife resources. In the unlikely event that there is a conflict between managing a refuge to achieve the purpose for which it was originally established and managing the refuge to meet the new Refuge System purposes, the bill directs the Secretary to first manage the refuge to meet its establishing purposes, while to the extent practicable, also achieving the System purposes.

A Sound Process to Evaluate Compatibility

Both bills before the Committee provide a clear standard by which to judge compatibility of refuge activities. If a proposed use is detrimental to the achievement of refuge purposes, it is incompatible and should not be allowed unless it is modified so as to make it compatible. The bills also require the Fish and Wildlife Service to establish a formal process to determine the compatibility of refuge uses in writing and direct the Service to provide for the expedited consideration of each use that is not likely to have a detrimental effect on the fulfillment of the purposes of the refuge or the System. S. 823 was amended to authorize the Secretary of Interior to make compatibility determinations concurrently with the development of conservation plans, where practicable, to avoid unnecessary duplication of effort.

• **Public review of compatibility determinations is an important element in improving the management of our National Wildlife Refuges. The compatibility section of the amended Senate bill should be revised to clarify that the public will be afforded an opportunity to review and comment on periodic reevaluations of compatibility, as we believe was the Environment and Public Works Committee's intent. Public participation in decision making is good public policy and should be encouraged in this legislation.**

Sound Planning for the Future of the National Wildlife Refuge System

H.R. 833 and S. 823 would ensure more consistent, integrated management and planned expansion of the National Wildlife Refuge System by requiring the Secretary of Interior to prepare periodic comprehensive plans for its administration. Not unlike the Service's current planning effort "Refuges 2003, A Plan for the Future of the National Wildlife Refuge System," the plans would set forth a strategy for maintaining healthy and abundant fish, wildlife, and plant populations in the System, and lay out a plan for land acquisition. The plans would also include strategies and programs to conserve and assist the recovery of listed endangered and threatened species, and species identified by the Service as candidates for such listing. The Senate bill was amended to recognize the Service's ongoing efforts to finalize "Refuges 2003" and therefore clarifies that the first plan required by the bill need not be completed until the year 2004.

Sound planning is an important process for any successful entity, whether it be a large corporation, a small town, or a national wildlife refuge. The two bills would require a periodically revised comprehensive conservation plan for each refuge or related complex of refuges to ensure management in a manner that is consistent with the purposes of the System and the purposes of the refuges. These plans would identify and describe the following: refuge wildlife populations and strategies to conserve them; potential for the refuges to provide opportunities for compatible environmental education and wildlife-dependent recreation; opportunities for the Fish and Wildlife Service to work with other agencies, land owners and other individuals to conserve the ecosystems in which the refuges are located; and significant threats facing the refuges and strategies to address these threats.

Two years ago, the Chincoteague National Wildlife Refuge completed a Master Plan to guide its management over the next ten to twenty years. The Master Plan is a well thought out document which, if properly implemented, will ensure consistent management and public use decisions in the future. The plan was the product of thorough public involvement including numerous discussions between the Fish and Wildlife Service, conservation organizations and local citizens. The health and sense of purpose of the National Wildlife Refuge System would be much improved if the other units followed a similar process.

The National Park Service, U.S. Forest Service, and Bureau of Land Management undertake comprehensive planning of their lands in accordance with their "organic acts." To properly manage our national wildlife refuges, the Fish and Wildlife Service should be directed to conduct thorough planning for these public lands. Although preparing plans for all of the refuges within the Refuge System may seem a daunting task, we believe the burden will be reduced substantially by allowing for planning of related complexes of refuges. In addition, the Senate bill has been amended to recognize that a number of refuges already have plans that may satisfy the bill's planning requirements and give more flexibility to the Fish and Wildlife Service in determining a schedule for completing or revising existing plans within ten years after the date of enactment.

Affirmative Responsibilities for the Secretary of Interior

H.R. 833 and S. 823 also require the Secretary of the Interior to ensure that the mission and purposes of the Refuge System are carried out, to protect the National Wildlife Refuge System and its components from threats, and to assist in the maintenance of adequate aquatic habitat. The Senate bill has been amended to "soften" these duties.

The Refuge System has been a step-child within the federal government for far too long because it lacks the kind of commitments in legislation that these bills would require of the Secretary of the Interior. Organic legislation for the

National Parks, National Forests and the lands administered by the Bureau of Land Management exact such commitments from their respective senior officials.

Mechanisms for Resolving Conflicts between Refuges and the Actions of Other Federal Agencies: Senate Provision Must be Improved

H.R. 833 requires other federal agencies conducting activities within any refuge to consult with the Secretary of Interior and ensure that any actions that the agency carries out do not impair the resources of the refuge. As introduced, S. 823 contained this same provision.

The amended Senate bill contains a number of provisions dealing with activities of other federal agencies that affect refuges. Unfortunately, these provisions, drafted by the Office of Management and Budget with very little oversight by Congress, were adopted by the Committee without debate.

The OMB amendments seem to allow federal agencies more ways to ignore their responsibilities not to harm refuges. These provisions constitute our area of greatest concern in the amended Senate bill; they are seriously flawed and must be improved in the following ways:

• New Paragraph (4) in Section 6 of the amended Senate bill requires other agencies to minimize and mitigate the adverse effects on the resources of a refuge that result from their activities. The bill should be amended to clarify that the compatibility standard will continue to apply to activities of other agencies on refuges that are currently subject to Fish and Wildlife Service jurisdiction and are therefore currently governed by that standard.

Furthermore, the paragraph should be amended to require other agencies, in consultation with the Secretary of Interior, to avoid, if possible, any adverse effects on the resources of a refuge that result from their activities, and, if unable to avoid, to minimize and mitigate any such adverse effects.

• New Paragraph (5) of this Section directs that the compatibility standard does not apply to actions authorized, funded or carried out by another agency on an "overlay" refuge over which the agency initiating the actions holds primary jurisdiction. The Senate Report directs that this provision shall apply only to those actions that are directly related to the primary mission of the agency holding primary jurisdiction over the area. On these "overlay" refuges, over which the Fish and Wildlife Service holds a secondary jurisdiction, the agency with primary jurisdiction should not initiate activities that are unrelated to its primary mission unless such activities are compatible with the purposes for which the refuge was established. The bill should be amended to reflect the clarification made in the report.

• New Paragraph (6)(A)(i) states that uses occurring "within the airspace over refuges" are not subject to the compatibility standard. This provision should be amended to ensure that it is intended to apply only to overflights and not activities that result in demonstrable negative impacts on the refuge real property, such as bombing exercises or other activities initiated in the air that impact the ground.

• New Paragraph (6)(A)(ii) states that "compatibility provisions of this Act shall not apply to existing federal navigation and communication aids or to routine maintenance, established access to or replacement of such aids: provided that replacement of such aids has no greater impact on wildlife resources than the original aid and utilizes no more space." This provision should be amended to ensure that maintenance and access to such aids in the future have no greater impact on refuge resources than they do currently.

• New Paragraph (6)(A)(iii) exempts existing "highway rights of way" from the compatibility standard; provided that, to the maximum extent practicable, the rights of way are managed and maintained so as to be compatible. The Senate Report directs that this provision should be interpreted "narrowly" and provides a definition for the term "highway rights of way." The bill should be amended to incorporate the definition provided in the report.

• New Paragraph (7) transfers primary jurisdiction over approximately 100,000 acres within the Desert National Wildlife Refuge that are used as a bombing range by the Air Force to the Department of Defense in exchange for unidentified Department of Defense lands, and retains only a secondary jurisdiction over these lands for the Fish and Wildlife Service. The Senate Report clarifies that this transfer does not modify the MOU between the Fish and Wildlife Service and the Air Force or permit the Air Force to engage in new or expanded uses of these areas. The bill should be amended to reflect the clarification made in the report.

In addition, we understand that there are two areas amounting to approximately 30,000 acres of the refuge that are included in the proposed transfer that provide important habitat for desert bighorns, the major species for whose conservation the Desert Refuge was established. The Fish and Wildlife Service has been trying to get the Air Force out of these areas for decades and these areas should not be included in any land transfer.

Finally, the exchange provision should be amended to ensure that the Fish and Wildlife Service receives fee title to real property to complete the exchange.

CONCLUSION

The Refuge System has a great history and a rich tradition — from the early vision of the great conservationist president Theodore Roosevelt, to the System's leadership role in the campaign to save wetlands and waterfowl that followed the dust bowl, to present day successes with endangered species management. We believe that this legislation will allow the National Wildlife Refuge System to meet the many challenges before it and the nation in the coming century.

The National Wildlife Refuge System is a unique national treasure. With the important changes suggested above, S. 823 as amended by the Senate Environment and Public Works Committee is sound and essential legislation that the Congress should enact as expeditiously as possible. We look forward to working with the Committee as the bill continues to move through the legislative process.

APPENDIX

Major reports that identified problems in the National Wildlife Refuge System.

In 1968 . . . The "National Wildlife Refuge System Advisory Board on Wildlife Management", appointed by Secretary of Interior Stewart L. Udall wrote:

"The proximity of urban masses leads inevitably to pressure for larger picnic grounds, camping facilities, improved swimming beaches, motorboat marinas, water skiing, bridle paths, target ranges, and other assorted forms of play which are only obliquely related to refuge purposes. "

"What is still lacking is a clear statement of policy or philosophy as to what the National Wildlife Refuge System should be and what are the logical tenants of its future development." (from *Report on the National Wildlife Refuge System*)

In 1979 . . . The "National Wildlife Refuge Study Task Force" appointed by Assistant Secretary of Interior Robert Herbst wrote:

"Local pressures to use refuge lands for such benefits as grazing, timber harvesting, and public recreation prevent refuge managers from effectively managing refuges primarily for wildlife. . . Pressures to develop or degrade refuges for economic gain are growing exponentially " (from *Recommendations on the Management of the National Wildlife Refuge System.*)

In 1981 . . . The General Accounting Office wrote:

"The Service is properly operating and maintaining only about 46 percent of the nation's refuges. . . Local pressures to use refuge lands for such benefits as grazing, timber harvesting, and public recreation prevent refuge managers from effectively managing refuges primarily for wildlife." (from *National Direction Required for Effective Management of America's Fish and Wildlife.*)

In 1983 . . . The U.S. Fish and Wildlife Service wrote:

"Threats associated with pollutants, land uses, public uses, exotic species, individual development projects, etc. . . . are currently causing or have the potential to cause significant damage to Service-managed natural resources. . . An average of 18.6 resource problems were reported per refuge." (from *Fish and Wildlife Service Resource Problems, National Wildlife Refuges, National Fish Hatcheries, Research Centers)*

In 1989 . . . General Accounting Office wrote:

"National Wildlife Refuges are frequently not the pristine wildlife sanctuaries implied by their name. . . Despite the requirements that only compatible secondary activities be permitted, refuge managers report that activities they consider harmful to wildlife resources (such as power boating oil and gas drilling, mining, jet-skiing, over-grazing, and off-road vehicles) are occurring on nearly 60 percent of the wildlife refuges." (from *National Wildlife Refuges: Continuing Problems with Incompatible Uses Call for Bold Action.*)

In 1991 . . . The U.S. Fish and Wildlife Service wrote:

"Incompatible and harmful uses are occurring on many national wildlife refuges. . . Refuge managers reported 836 use occurrences as being harmful to refuge operations. . . The survey results indicated that 63% of refuge units reported [at least one] harmful use." (from *Report of Secondary Uses Occurring on National Wildlife Refuges*)

In 1993 . . . The Interior Department's Inspector General wrote:

"We concluded that at all of the refuges we visited, the U.S. Fish and Wildlife Service had not maintained the refuges in a manner that would effectively enhance and protect the wildlife." (from *Maintenance of Wildlife Refuges, U.S.Fish and Wildlife Service)*

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103D CONGRESS
1ST SESSION

H. R. 833

To amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. GIBBONS (for himself, Mr. SYNAR, Mr. BACCHUS of Florida, Mr. BERMAN, Mr. BROWN of California, Mrs. BYRNE, Mr. COLEMAN, Mr. DICKS, Mr. FROST, Mr. JEFFERSON, Mrs. MALONEY, Mrs. MEEK, Mr. NEAL of Massachusetts, Ms. PELOSI, Mr. RAVENEL, Mr. SABO, Mr. SCHUMER, Ms. SLAUGHTER, Mr. STOKES, Mr. TOWNS, Mr. WELDON, and Mr. YATES) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Wildlife Refuge System Management and Policy Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) the National Wildlife Refuge System (hereafter in this section referred to as the "System") was established under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.);

(2) the National Wildlife Refuge System Administration Act of 1966 consolidates the authorities related to lands, waters, and interests in such lands and waters administered by the Secretary of the Interior (hereafter in this section referred to as the "Secretary"), for the purpose of conservation of fish and wildlife;

(3) the System provides opportunities for individuals to participate in wildlife-oriented recreation, and to learn, understand, and appreciate the value of and need for conserving fish and wildlife, wild lands, and naturally productive ecological communities, types, and systems;

(4) the System is the only complex of Federal lands devoted primarily to preserving, restoring, and managing fish and wildlife and the habitats of fish and wildlife;

(5) National Wildlife Refuges provide habitat for many endangered and threatened species, and for species that may become endangered or threatened, as well as for other fish, wildlife, and plants;

(6) the well-being and abundance of such fish, wildlife, and plants would be diminished without such protected habitat;

(7) activities are occurring on a significant number of National Wildlife Refuges that result in harm to the fish and wildlife resources the System was designed to conserve; and

(8) improvements are needed in the administration and management of the System to ensure that sound and effective conservation programs for the System are developed, implemented, and enforced.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To reaffirm the provisions of the Act commonly known as the Refuge Recreation Act (16 U.S.C. 460k et seq.) that authorizes the Secretary of the Interior (hereafter in this subsection referred to as the "Secretary") to permit compatible fish and wildlife-oriented public recreation, such as hunting, fishing, and wildlife observation on refuges.

(2) To improve the administration and management of the System.

(3) To establish purposes for the System.

(4) To improve the compatibility determination process for National Wildlife Refuges.

(5) To establish comprehensive planning for the System and individual wildlife refuges of the System.

(6) To provide for interagency coordination in maintaining refuge resources.

SEC. 3 DEFINITIONS.

Section 5 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668ee) is amended—

(1) by redesignating subsections (a) through (c) as subsections (g) through (i); and

(2) by inserting the following new subsections before subsection (h) (as so redesignated):

"(a) The term 'Secretary' means the Secretary of the Interior (except as the context implies otherwise).

"(b) The term 'Director' means the Director of the United States Fish and Wildlife Service.

"(c) The term 'System' means the National Wildlife Refuge System.

"(d) The term 'refuge' means a unit of the National Wildlife Refuge System, except that such term shall not

include State-managed wildlife management areas (commonly known as 'coordination areas').

"(e) The terms 'fish', 'wildlife' and 'fish and wildlife' mean any native member of the animal kingdom in a wild, unconfined state, including the parts, products, or eggs of such animals.

"(f) The term 'plant' means any native member of the plant kingdom in a wild, unconfined state, including plant communities, seeds, roots, and other parts thereof.".

SEC. 4. PURPOSES AND ADMINISTRATION OF THE SYSTEM.

Subsection (a) of section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6); and

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) The purposes of the System are as follows:

"(A) To provide a national network of lands and waters with respect to which the size, variety, and location are designed to protect the wealth of fish, wildlife, and plants of this Nation and their habitats for present and future generations.

"(B) To provide healthy, naturally productive, and enduring food, water, and shelter to fish, wild-

life, and plant communities and to ensure naturally diverse, healthy, and abundant populations of fish, wildlife, and plant species in perpetuity.

"(C) To serve in the fulfillment of international treaty obligations of the United States with respect to fish, wildlife, and plants, and their habitats.

"(3) If the Secretary finds that a conflict exists between any purpose set forth in the law or order that established a refuge and any purpose set forth in paragraph (2), the Secretary shall resolve the conflict in a manner that fulfills the purpose set forth in the law or order that established the refuge, and, to the extent possible, achieves all of the purposes set forth in paragraph (2).

"(4) In the administration of the System for the purposes described in paragraph (2), the Secretary, acting through the Director, shall—

"(A) ensure that the purposes of the System described in paragraph (2) of this subsection and the purposes of each refuge are carried out;

"(B) protect the System and the components of the System from threats to the ecological integrity of such System and components;

"(C) to the extent authorized by law, ensure adequate water quantity and water quality to fulfill the purposes of the System and of each refuge; and

"(D) plan, propose, and direct expansion of the System in a manner best designed to—

"(i) accomplish the purposes of the System and of each refuge in the System;

"(ii) protect and aid recovery of any species listed as endangered or threatened (and any species that is a candidate for such listing); and

"(iii) conserve other fish, wildlife, and plants, the habitats of such fish, wildlife, and plants, and other elements of natural diversity.".

SEC. 5. COMPATIBILITY STANDARDS AND PROCEDURES.

Paragraph (1) of section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(d)(1)), is amended by adding at the end of the paragraph the following new subparagraphs:

"(C) Except as provided in subparagraph (E) of this paragraph, the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use unless the Secretary finds, in consultation with the Director, pursuant to subsection (e) of this section, that such use is compatible with the purposes of the System and of the refuge. The Secretary shall make no determination of

such compatibility, nor initiate a proposed new use or permit a proposed, continued, or expanded use, unless the Secretary does the following:

"(i) States the time, location, manner, and purpose of such use.

"(ii) Evaluates the direct, indirect, and cumulative biological, ecological, and other effects that the Secretary determines to be appropriate of such use.

"(iii) Makes a determination, on the basis of the evaluation required under clause (ii) of this subparagraph, that such use will contribute to the fulfillment of the purposes of the System and the refuge or will not have a detrimental effect upon fulfillment of the purposes of the System or the refuge.

"(iv) Makes a determination that funds are available for the development, operation, and maintenance of such use.

"(D) Unless the Secretary, in consultation with the Director, determines that there is sufficient information available to make a reasoned judgment that a proposed, continued, or expanded use of a refuge is compatible with the purposes of the System

and the refuge, the Secretary shall not permit the use.

"(E)(i) Except as provided in clause (ii), uses of refuge system lands in effect on the date of the enactment of the National Wildlife Refuge System Management and Policy Act of 1993 that, before such date, have been determined to be compatible under this section or the Act entitled 'An Act to assure continued fish and wildlife benefits from the national fish and wildlife conservation areas by authorizing their appropriate incidental or secondary use for public recreation to the extent that such use is compatible with the primary purposes of such areas, and for other purposes', commonly referred to as the 'Refuge Recreation Act' (16 U.S.C. 460k et seq.) may be continued pursuant to the terms and conditions of existing special use permits, and applicable law, for the period of time specified in the permit.

"(ii) Not later than 5 years after the date of the enactment of the National Wildlife Refuge System Management and Policy Act of 1993, any use described in clause (i) shall cease and permits for such uses be revoked unless the Secretary, in consultation with the Director of the United States Fish

and Wildlife Service, makes a determination, pursuant to the procedures established under this section, that the use is compatible with the purposes of the System and the refuge.

"(F) The Secretary shall, acting through the Director, by regulation, establish and maintain a formal process for governing determinations of whether an existing or proposed new use in a refuge is compatible or incompatible with the purposes of the System and the refuge. The regulations shall provide for the expedited consideration of uses that the Secretary considers to have little or no adverse effects on the purposes of the System or a refuge, and shall—

"(i) designate the refuge officer initially responsible for compatibility and incompatibility determinations;

"(ii) describe the biological, ecological, and other criteria to be used in making such determinations;

"(iii) require that such determinations shall be made in writing and based on the best available scientific information;

"(iv) establish procedures that ensure an opportunity for public review and comment with respect to such determinations;

"(v) designate the officer who shall hear and rule on appeals from initial determinations; and

"(vi) provide for the reevaluation of a compatibility determination on a periodic basis or whenever the conditions under which the use is permitted change.

"(G) Except as provided in subparagraph (H), the head of each Federal agency that, with respect to a refuge, has an equivalent or secondary jurisdiction with the Department of the Interior, or that conducts activities within any refuge shall, in consultation with the Secretary, ensure that any actions authorized, funded, or carried out in whole or in part by such agency will not impair the resources of the refuge or be incompatible with the purposes of either the System or the refuge (unless such action is specifically authorized by law).

"(H) The President may find, on a case-by-case basis, that, with respect to a refuge, it is in the paramount interest of the United States to exempt the head of a Federal agency described in subpara-

graph (G) from carrying out the requirements of subparagraph (G) of this paragraph.".

SEC. 6. SYSTEM CONSERVATION PLANNING PROGRAM.

(a) IN GENERAL.—Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd), as amended by section 3 of this Act, is further amended—

(1) by redesignating subsections (e) through (i) as subsections (g) through (k); and

(2) by inserting the following new subsections:

"(e) SYSTEM PLAN.—(1) Not later than September 30, 1995, the Secretary shall prepare, and subsequently revise, not less frequently than every 10 years thereafter, a comprehensive plan for the System.

"(2) The plan described in paragraph (1) shall include—

"(A) relevant elements of recovery plans required under section 4(f), of the Endangered Species Act of 1973 (16 U.S.C. 1533(f));

"(B) relevant summaries and compilations of refuge plans developed under this section and the relevant elements of migratory bird management plans;

"(C) a strategy and standards for maintaining healthy and abundant wildlife populations in the

System and in each refuge ecotype or ecosystem (including the protection of zones for dispersal, migration, and other fish and wildlife movements, and the conservation of species designated as candidates for listing pursuant to section 4 of the Endangered Species Act (16 U.S.C. 1533));

"(D) strategies, developed cooperatively with agencies administering other Federal or State land systems, to enhance wildlife protection on national wildlife refuges and other land systems which collectively form a national network of wildlife habitats; and

"(E) a plan and program for the acquisition of lands and waters, including water rights, necessary to achieve the purposes of the System and each refuge.

"(f) REFUGE CONSERVATION PLANS.—(1) Except with respect to refuge lands in Alaska (which shall be governed by refuge planning provisions of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)), the Secretary shall prepare, and revise at least every 15 years, a comprehensive conservation plan (hereinafter in this subsection referred to as a 'plan') for each refuge or ecologically related complex of refuges (hereafter in this subsection referred to as a 'planning unit') in the

System. The Secretary shall revise any plan at any time thereafter, upon a determination that conditions that affect a planning unit have changed significantly.

"(2) In developing each plan under this subsection, the Secretary shall identify and describe—

"(A) the purposes of the refuge and the purposes of the System applicable to the refuge or the individual refuges of the planning unit;

"(B) fish, wildlife, and plant populations and habitats of the planning unit (including at the time of the development of the plan, current, historical, and potentially restorable populations and habitats) and the seasonal (and other) dependence of migratory fish and wildlife species on the habitats and resources of interrelated units of the System;

"(C) archaeological, cultural, ecological geological, historical, paleontological, physiographic, and wilderness values of the planning unit;

"(D) areas within the planning unit that are suitable for use as administrative sites or visitor facilities or for visitor services;

"(E) significant problems, including water quantity and quality needs (within or without the boundaries of the refuge or complex) that may adversely affect the natural diversity, communities,

health, or abundance of populations or habitats of fish, wildlife, and plants;

"(F) existing boundaries of each refuge in the planning unit in relation to ecosystem boundaries and wildlife dispersal and migration patterns; and

"(G) specific strategies, developed cooperatively with the heads of agencies administering other Federal and State lands, to enhance wildlife protection in the planning unit, and to the extent practicable, on other Federal and State lands proximate to the planning unit.

"(3) Each plan under this subsection shall—

"(A) designate each area within the planning unit according to the archeological, cultural, ecological, geological, historical, paleontological, physiographic, and wilderness values of the area;

"(B) specify the uses within each such area that may be compatible with the purposes of the refuge and the System and the funds and personnel that may be required to administer such uses;

"(C) specify programs for achieving the purposes described in paragraph (2)(A) and for conserving, restoring, and maintaining the resources and values identified and described under subparagraphs (B) and (C) of paragraph (2);

"(D) specify the approaches to be taken to avoid or overcome the problems identified in paragraph (2)(E) and estimate resource commitments required to implement such approaches;

"(E) specify opportunities that may be provided within the planning unit for compatible fish and wildlife related recreation, ecological research, environmental education, and interpretation of refuge resources and values;

"(F) except with respect to Alaska refuges studied pursuant to section 1317 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3205), review the suitability for designation as wilderness refuge lands not previously studied for designation as wilderness or designated as wilderness, and recommend to the President and Congress designation for such lands in accordance with the provisions of sections 3(c) and 3(d) of the Wilderness Act (16 U.S.C. 1132 (c) and (d), respectively), including islands and areas of 200 acres or more immediately adjacent to wilderness areas (as designated at the time of the review), lands recommended (before the time of such review) for inclusion in the Wilderness Preservation System, and proposed land acquisitions by the Department of the Interior that the Secretary

determines will, over time, be of an area of 5,000 contiguous acres; and

"(G) identify the funds and personnel necessary to implement the strategies and administer the uses identified in this section.

"(4) In preparing each plan under this subsection, and any revision of the plan, the Secretary shall consult with such heads of Federal and State departments and agencies as the Secretary determines to be appropriate.

"(5) Prior to the adoption of a plan, the Secretary shall issue public notice of the draft proposed plan in the Federal Register, make copies of the plan available at each regional office of the United States Fish and Wildlife Service, and provide opportunity for public comment.

"(6)(A) Not later than 4 years after the date of the enactment of the National Wildlife Refuge System Management and Policy Act of 1993, the Secretary shall, pursuant to this subsection, prepare and submit to the appropriate committees of Congress, plans for not less than one-third of the refuges in existence on the date of the enactment of such Act.

"(B) Not later than 7 years after the date of the enactment of the National Wildlife Refuge System Management and Policy Act of 1993, the Secretary shall, pursuant to this subsection, prepare and submit to the appro-

priate committees of Congress, plans for not less than two-thirds of refuges in existence on the date of the enactment of such Act.

"(C) Not later than 10 years after the date of the enactment of the National Wildlife Refuge System Management and Policy Act of 1993, the Secretary shall, pursuant to this subsection, prepare and submit to the appropriate committees of Congress, plans for each refuge in existence on the date of the enactment of such Act.

"(D) With respect to any refuge established after the date of the enactment of the National Wildlife Refuge System Management and Policy Act of 1993, the Secretary shall prepare a plan for the refuge not later than 2 years after the date of the establishment of such refuge.".

SEC. 7. ADMINISTRATION.

The Secretary of the Interior shall manage the refuges in the National Wildlife Refuge System in a manner consistent with any refuge conservation plans developed under section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd), as amended by this Act.

SEC. 8. REGULATIONS.

Except as otherwise required in this Act, the Secretary of the Interior, shall—

(1) not later than 1 year after the date of the enactment of this Act, propose regulations to carry out the provisions of this Act; and

(2) not later than 18 months after the date of the enactment of this Act, promulgate final regulations to carry out the provisions of this Act.

SEC. 9. CONFORMING AMENDMENT.

Section 4 of the National Wildlife Refuge System Administration Act of 1966, as amended by section 6 of this Act, is further amended by striking "Secretary of the Interior" each place it appears and inserting "Secretary".

SEC. 10. APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 11. EMERGENCY POWER.

The Secretary of the Interior is authorized to suspend any activity conducted in any refuge in the National Wildlife Refuge System in the event of an emergency that constitutes an imminent danger to the health and safety of any wildlife population, refuge, or to public health and safety.

SEC. 12. STATUTORY CONSTRUCTION.

Except as specifically provided in this Act, nothing in this Act shall be construed so as to alter or otherwise affect the provisions of the Refuge Recreation Act of 1962

(16 U.S.C. 460k et seq.), the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd et seq.), the Alaska National Interest Conservation Act of 1980 (16 U.S.C. 3101 et seq.), and other laws and orders establishing individual refuges in effect on the date of the enactment of this Act.

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FISH AND WILDLIFE CONSERVATION AREAS

For text of Act see p. 769

Senate Report No. 1858, Aug. 7, 1962 [To accompany H.R. 1171]

House Report No. 1473, Mar. 20, 1962 [To accompany H.R. 1171]

The Senate Report is set out.

Senate Report No. 1858

THE Committee on Commerce, to whom was referred the bill (H.R. 1171) to assure continued fish and wildlife benefits from the national fish and wildlife conservation areas by authorizing their appropriate incidental or secondary use for public recreation to the extent that such use is compatible with the primary purposes of such areas, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

PURPOSE OF THE BILL

H.R. 1171 is designed to provide for incidental or secondary public recreational use of fish and wildlife conservation areas administered by the Department of the Interior, through the Bureau of Sport Fisheries and Wildlife. It would provide for limited recreational use that is compatible with the primary objectives for which the areas are operated. While the principal function of the national wildlife refuge system is to conserve wildlife, and that of the national fish hatchery system is to propagate fish, it is recognized that many of the units, or parts thereof, in these systems offer opportunities for outdoor recreation which can be achieved without jeopardizing the fish and wildlife resources of the areas. A number of these wildlife conservation areas contain lakes or marshes which are the only public waters in the general geographic area. There are woods on many of them and, of course, wildlife to attract attention. The national fish hatcheries with well-kept surroundings often present a picture of a city park, and the fish themselves are a prime attraction.

With the rapidly expanding recreational demand, it is only natural that the public seek out these refuges and fish hatcheries. The Fish and Wildlife Service has never sought to discourage public visitation, but the sheer numbers of people desiring to use these areas threaten to destroy the values for which they were established. It is believed that, with certain limitations, these units can make a material contribution to the recreational supply. To do this facilities must be provided to use the areas properly and at the same time draw the people away from the portions that must be managed for the primary purpose of the hatcheries or refuges.

The number of visitor-days of public use on 140 of the 289 national wildlife refuges and game ranges has increased from 3½ million in 1951 to over 11 million in 1961. At present, hunting and fishing are the only types of recreational use specifically authorized on refuges. Yet these activities account for only about one-third of the visitor-days. The other two-thirds of the visitor-days are spent for picnicking, swimming, photographing or

observing wildlife, and similar activities. The 101 national fish hatcheries are visited for educational and recreational purposes by 1 million people a year. The main types of recreation engaged in are picnicking and nature studies.

The anticipated visitor load in calendar year 1962 is expected to reach 12 million at refuges and a little over 1 million at hatcheries.

PROPOSED PROGRAM OF THE BUREAU OF SPORT FISHERIES AND WILDLIFE

In testimony before your committee the Director of the Bureau of Sport Fisheries and Wildlife made the following statement:

> In considering a reasonable recreation program, providing the proposed legislation is enacted, we have tried to be realistic in planning minimal needs in each locality and avoiding the duplication of facilities available in nearby National, State, or local forests or parks. In general, facilities to be provided at some 63 of 101 hatchery installations will consist of picnic tables, fireplaces, water supplies, and toilets. At certain hatcheries, aquariums, and other educational exhibits will be provided. Picnicking will also be the main public use of refuges. Considering the existing refuges, we estimate that 118 will be developed mainly for picnickers. On 22 other refuges and game ranges, larger recreational programs are planned. These programs involve boat docks and launching ramps, extensive road construction, educational exhibits, toilets, swimming beaches, and campgrounds.
>
> The bill, as amended, would authorize the Secretary of the Interior to acquire limited areas of land for recreational development adjacent to existing fish and wildlife conservation areas or adjacent to prepared refuges which the Migratory Bird Conservation Commission has approved for purchase. Only such funds as may be donated or appropriated by the Congress could be used for that purpose. Such property could not be acquired with funds obtained from the sale of migratory bird hunting stamps (duck stamps). We believe this specific authority would be helpful in certain instances by permitting the acquisition of parking areas, limited rights-of-way for access, and small wooded picnic areas adjacent to otherwise prairie- or marsh-type refuges. In general, our use of the authorization in this section would be very limited, involving not to exceed 20 refuges and a relatively small acreage. No more than 100 acres would be acquired adjacent to any one refuge. Also, we anticipate that no more than 1 to 3 acres, at a maximum of 20 hatcheries, would be acquired for picnic sites or parking areas, a total of not more than 60 acres.

COST

The Fish and Wildlife Service estimates that the additional facilities required for proper development of wildlife areas under the authority of this legislation would cost somewhat less than $5 million, with annual maintenance and administration expenses of less than $1 million.

FISH AND WILDLIFE

AGENCY REPORTS

Reports from the Department of the Interior and the Comptroller General of the United States follow:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., June 4, 1962.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U. S. Senate, Washington, D. C.

DEAR SENATOR MAGNUSON: Your committee has requested a report on H.R. 1171 to assure continued fish and wildlife benefits from the national fish and wildlife conservation areas by authorizing their appropriate incidental or secondary use for public recreation to the extent that such use is compatible with the primary purposes of such areas, and for other purposes.

We recommend that H.R. 1171 receive favorable consideration by your committee. We recommend also certain clarifying and perfecting amendments that we consider very desirable.

This proposed legislation has been passed by the House of Representatives substantially in the form previously recommended by this Department. As prescribed by section 1 of this bill incidental public recreational use of the Nation's wildlife refuges, game ranges, national fish hatcheries, and other conservation areas administered by this Department for fish and wildlife purposes would be permitted, subject to certain conditions, in connection with such areas.

Limited public recreational use of the Nation's fish and wildlife conservation areas that we administer is already a recognized activity in many of these areas. Expanding pressure for recreational use of these areas is inescapable. Incidental recreational use would be permitted within these areas, as set forth in this bill, only to the extent that is practicable and not inconsistent with the primary objectives for which each particular area is established. This is an essential feature of this legislation. We believe the bill provides adequately for the accomplishment of these purposes. It will establish a clear-cut formula, which is urgently needed, governing recreational use of the Nation's fish and wildlife conservation areas. We need such an enactment, clearly outlining and delimiting our authority, as a basis for our administration of these areas in the public interest.

Public observation of wildlife in its native habitat, photography, sightseeing, picnicking, camping, swimming, boating, fishing, and hunting are now permitted in some areas. Significantly, the number of visitor-days of public use of wildlife refuges and game ranges has increased from 3,500,000 persons in 1951, to approximately 11 million in 1960. It now amounts to about 1 million persons a year at hatcheries. Our annual appropriation acts, beginning with the fiscal year 1954, have given recognition to this public use.

Our problem of providing for public recreational use within approximately 140 of the 289 national wildlife refuges, on which public recreation is now permitted, is becoming more acute. Pressure for such use has been increasing steadily due to various factors, such as the increased leisure time of our people. Also, a need for the type of wholesome public recreation that areas of this kind provide contributes to this pressure. This problem relates to the necessity to confine public recreation to limited areas within these refuges so as to avoid interference with the primary functions of wildlife protection and propagation. This proposed legislation will strengthen our administration of these areas in this respect.

Our problem of meeting the public demand for recreation facilities is becoming greater every year because of the fact that it has been necessary for us to use our limited maintenance funds—which are needed for regular maintenance purposes—to safeguard property and resources in

handling such public use. This necessarily results in curtailment of important maintenance functions.

Roads in these areas frequently are inadequate for traffic needs. Notwithstanding public demand, camping and picnicking must be discouraged in most areas because there are no improved sites on which such activities can be permitted. The urgent need to remedy this situation has been called forcefully to our attention by an advisory committee on fish and wildlife, which consisted of representatives of leading national conservation organizations and which has advised this Department on conservation matters.

Public recreation facilities that need to be provided at some 63 of 101 hatchery installations consist of picnic tables, fireplaces, water supplies, trash cans, and sanitary facilities. At certain hatcheries, aquariums and other educational exhibits are needed. Picnic facilities are the main public need on refuge areas. Other facilities are needed in some of the refuges and game ranges. These facilities include boat docks and launching ramps, access road construction, educational exhibits, sanitary facilities, swimming beaches, and campgrounds.

We estimate the probable total cost for construction and development of public recreation facilities that are needed on refuges, game ranges, and hatcheries to be less than $5 million. Annual costs for administration and maintenance of these facilities probably will be less than $1 million. In estimating minimal needs, we desire to avoid unnecessary expenditures and duplication of other facilities that are available to the public within a reasonable distance in national parks, State parks, or forests. Moreover, we do not propose to provide or to maintain recreation facilities where such facilities can be provided and maintained by local agencies directly or pursuant to agreement with this Department. In this connection, it should be noted that section 3 of this bill authorizes cooperation with public and private agencies and individuals. This provision will be helpful to us in carrying out our expressed intent in this regard. Construction and development costs, of course, may be extended over a period of years, in accordance with established budgetary procedures, thereby reducing such costs for any one year.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, April 20, 1962.

B-148599.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U. S. Senate.

DEAR MR. CHAIRMAN: Your letter of April 4, 1962, acknowledged April 5, invited our comment on H.R. 1171, a bill to authorize the incidental or secondary use for public recreation of national fish and wildlife conservation areas.

We have no comment to offer except with regard to the disposition of the charges and fees collectible under section 4 of the proposed legislation.

Section 4 provides that the Secretary of the Interior "may establish reasonable charges, fees, and permits for public use of national wildlife refuges, games ranges, national fish hatcheries, and other conservation areas administered by the Department of the Interior for fish and wildlife purposes of this act." However, the disposition of such revenues is somewhat in doubt, particularly in view of 16 U.S.C. 715s providing for the

participation of States in revenues from refuges administered by the Fish and Wildlife Service of the Department of the Interior.

We suggest, if this bill is favorably considered, the need for clarification of whether the revenues collectible thereunder are to be considered within the purview of 16 U.S.C. 715s, and the desirability of specifically providing that the moneys retained by the United States be covered into the Treasury as miscellaneous receipts.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

DEAF PERSONS—EDUCATIONAL AND TRAINING FILMS

For text of Act see p. 770

Senate Report No. 1870, Aug. 9, 1962 [To accompany S. 2511]

House Report No. 2366, Sept. 13, 1962 [To accompany S. 2511]

The House Report is set out.

House Report No. 2366

THE Committee on Education and Labor, to whom was referred the bill (S. 2511) to provide for the production and distribution of educational and training films for use by deaf persons, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

SUMMARY

S. 2511 would strengthen and improve the existing program of providing a loan service of captioned films for use by schools for the deaf and groups of deaf persons by authorizing (1) the production and distribution of training films for the deaf, (2) the conduct of research in the use of educational and training films for the deaf, and (3) the training of persons in the use of films for the deaf. Under existing law the Secretary of Health, Education and Welfare had authority only to acquire films and provide for their captioning and distribution.

BACKGROUND

The captioned films for the deaf program was established pursuant to Public Law 85–905, which was approved on September 2, 1958. Since that time the program has acquired and captioned more than 100 films, and it presently operates a loan service of some 340 individual prints.

The program currently serves more than 640 organized groups of deaf persons in the United States, including the more than 400 schools for the deaf in this country. While the total annual audience for these films exceeds 92,000 deaf persons, this is far short of total deaf population, which is estimated at 250,000.

§ 460k. Public recreation use of fish and wildlife conservation areas; compatibility with conservation purposes; appropriate incidental or secondary use; consistency with other Federal operations and primary objectives of particular areas; curtailment; forms of recreation not directly related to primary purposes of individual areas; repeal or amendment of provisions for particular areas

In recognition of mounting public demands for recreational opportunities on areas within the National Wildlife Refuge System, national fish hatcheries, and other conservation areas administered by the Secretary of the Interior for fish and wildlife purposes; and in recognition also of the resulting imperative need, if such recreational opportunities are provided, to assure that any present or future recreational use will be compatible with, and will not prevent accomplishment of, the primary purposes for which the said conservation areas were acquired or established, the Secretary of the Interior is authorized, as an appropriate incidental or secondary use, to administer such areas or parts thereof for public recreation when in his judgment public recreation can be an appropriate incidental or secondary use: *Provided*, That such public recreation use shall be permitted only to the extent that is practicable and not inconsistent with other previously authorized Federal operations or with the primary objectives for which each particular area is established: *Provided further*, That in order to insure accomplishment of such primary objectives, the Secretary, after consideration of all authorized uses, purposes, and other pertinent factors relating to individual areas, shall curtail public recreation use generally or certain types of public recreation use within individual areas or in portions thereof whenever he considers such action to be necessary: *And provided further*, That none of the aforesaid refuges, hatcheries, game ranges, and other conservation areas shall be used during any fiscal year for those forms of recreation that are not directly related to the primary purposes and functions of the individual areas until the Secretary shall have determined—

(a) that such recreational use will not interfere with the primary purposes for which the areas were established, and

(b) that funds are available for the development, operation, and maintenance of these permitted forms of recreation. This section shall not be construed to repeal or amend previous enactments relating to particular areas.

(Pub.L. 87–714, § 1, Sept. 28, 1962, 76 Stat. 653; Pub.L. 89–669, § 9, Oct. 15, 1966, 80 Stat. 930.)

§ 460k–1. Acquisition of lands for recreational development; funds

The Secretary is authorized to acquire areas of land, or interests therein, which are suitable for—

(1) incidental fish and wildlife-oriented recreational development,

(2) the protection of natural resources,

(3) the conservation of endangered species or threatened species listed by the Secretary pursuant to section 1533 of this title, or

(4) carrying out two or more of the purposes set forth in paragraphs (1) through (3) of this section, and are adjacent to, or within, the said conservation areas, except that the acquisition of any land or interest therein pursuant to this section shall be accomplished only with such funds as may be appropriated therefor by the Congress or donated for such purposes, but such property shall not be acquired with funds obtained from the sale of Federal migratory bird hunting stamps.

Lands acquired pursuant to this section shall become a part of the particular conservation area to which they are adjacent.

(Pub.L. 87–714, § 2, Sept. 28, 1962, 76 Stat. 653; Pub.L. 92–534, Oct. 23, 1972, 86 Stat. 1063; Pub.L. 93–205, § 13(d), Dec. 28, 1973, 87 Stat. 902.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1962 Acts. Senate Report No. 1858, see 1962 U.S.Code Cong. and Adm.News, p. 2723.

1972 Acts. Senate Report No. 92–1291, see 1972 U.S.Code Cong. and Adm.News, p. 4281.

1973 Acts. Senate Report No. 93–307 and Conference Report No. 93–740, see 1973 U.S.Code Cong. and Adm.News, p. 2989.

Amendments

1973 Amendments. Pub.L. 93–205 inserted references to the acquisition of interests in land the conservation of endangered species or threatened species listed by the Secretary pursuant to section 1533 of this title.

1972 Amendments. Pub.L. 92–534 substituted provisions authorizing the Secretary to acquire lands suitable for fish and wildlife oriented recreational development, or for the protection of natural resources and adjacent to conservation areas, for provisions authorizing the Secretary to acquire limited areas of land for recreational development adjacent to conservation areas in existence or approved by the Migratory Bird Conservation Commission as of September 28, 1962.

Effective Dates

1973 Acts. Amendment by Pub.L. 93–205 effective Dec. 28, 1973, see section 16 of Pub.L. 93–205, set out as a note under section 1531 of this title.

CROSS REFERENCES

Moneys allocated from land and water conservation fund, see 16 USCA § 460l-9.

87TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1473

AUTHORIZING APPROPRIATE INCIDENTAL OR SECONDARY USE FOR PUBLIC RECREATION OF NATIONAL FISH AND WILDLIFE CONSERVATION AREAS

MARCH 20, 1962.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BONNER, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 1171]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 1171) to increase the public benefits from the national fish and wildlife conservation areas through their incidental or secondary use for public recreation, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Strike out all after the enacting clause, and insert in lieu thereof the following:

That in recognition of mounting public demands for recreational opportunities on national wildlife refuges, game ranges, national fish hatcheries, and other conservation areas administered by the Secretary of the Interior for fish and wildlife purposes; and in recognition also of the resulting imperative need, if such recreational opportunities are provided, to assure that any present or future recreational use will be compatible with, and will not prevent accomplishment of, the primary purposes for which the said conservation areas were acquired or established, the Secretary of the Interior is authorized, as an appropriate incidental or secondary use, to administer such areas or parts thereof for public recreation when in his judgment public recreation can be an appropriate incidental or secondary use: *Provided*, That such public recreation use shall be permitted only to the extent that is practicable and not inconsistent with other previously authorized Federal operations or with the primary objectives for which each particular area is established: *Provided further*, That in order to insure accomplishment of such primary objectives, the Secretary, after con-

sideration of all authorized uses, purposes, and other pertinent factors relating to individual areas, shall curtail public recreation use generally or certain types of public recreation use within individual areas or in portions thereof whenever he considers such action to be necessary: *And provided further*, That none of the aforesaid refuges, hatcheries, and conservation areas shall be used during any fiscal year for those forms of recreation that are not directly related to the primary purposes and functions of the individual areas until the Secretary shall have determined—

(a) that such recreational use will not interfere with the primary purposes for which the areas were established, and

(b) that funds are available for the development, operation, and maintenance of these permitted forms of recreation. This section shall not be construed to repeal or amend previous enactments relating to particular areas.

SEC. 2. In order to avoid adverse effect upon the wildlife populations of the said areas that might otherwise result from public recreation or visitation to such areas, the Secretary is authorized to acquire limited areas of land for recreational development adjacent to the said conservation areas: *Provided*, That the acquisition of any land or interest therein pursuant to this section shall be accomplished only with such funds as may be appropriated therefor by the Congress or donated for such purposes, but such property shall not be acquired with funds obtained from the sale of Federal migratory bird hunting stamps.

SEC. 3. In furtherance of the purposes of this Act, the Secretary is authorized to cooperate with public and private agencies, organizations, and individuals, and he may accept and use, without further authorization, donations of funds and real and personal property. Such acceptance may be accomplished under the terms and conditions of restrictive covenants imposed by donors when such covenants are deemed by the Secretary to be compatible with the purposes of the wildlife refuges, game ranges, fish hatcheries, and other fish and wildlife conservation areas.

SEC. 4. The Secretary may establish reasonable charges, fees, and permits for public use of national wildlife refuges, game ranges, national fish hatcheries, and other conservation areas administered by the Department of the Interior for fish and wildlife purposes of this Act. A violation of such regulations shall be a petty offense (18 U.S.C. 1) with maximum penalties of imprisonment for not more than six months, or a fine of not more than $500, or both.

SEC. 5. There is authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act, including the construction and maintenance of public recreational facilities.

Amend the title so as to read:

A bill to assure continued fish and wildlife benefits from the national fish and wildlife conservation areas by authorizing their appropriate incidental or secondary use for public recreation to the extent that such use is compatible with the primary purposes of such areas, and for other purposes.

PURPOSE OF THE BILL

The purpose of the bill H.R. 1171 is to permit the enjoyment of national fish and wildlife conservation areas by a larger segment of our population.

BACKGROUND OF THE LEGISLATION

This bill is designed to establish a clear-cut formula, which is urgently needed, governing recreational use of the Nation's refuges, game ranges, fish hatcheries and other conservation areas. The expanding pressure for such use should be controlled in an orderly manner and the necessary facilities provided for the benefit of those individuals who would use such areas for observation of wildlife in

its native habitat, photography, sightseeing, picnicking, camping, swimming and fishing, and boating.

The Fish and Wildlife Service reports that in very many cases such uses are not inconsistent with the primary objectives of protection of wildlife for which the areas were established. However, such use will entail the addition of facilities such as parking areas, acquisition roads, sanitary facilities, dock and launching ramps and campgrounds, to encourage the widest possible use of the areas.

Representatives of conservation organizations have expressed the view that such expanded use of wildlife areas will not prove detrimental to wildlife and that such use would undoubtedly be beneficial to people in the area of such refuges.

The committee recognizes that very many of the wildlife areas were purchased with the proceeds of the sale of so-called duck stamps to sportsmen and it is not the intention of this legislation to divert any part of duck stamp money to the new uses. The plan contemplates the imposition of user charges to defray at least in part the cost of the additional facilities required. It is the hope of the committee that such charges will be kept as reasonable as possible in order to encourage the widest use of the areas for the benefit of the greatest number of individuals.

At the present time, a number of these activities are permitted in some areas and the number of visitors has increased in these areas from 3.5 million people in 1951 to approximately 11 million in 1960.

COST OF THE LEGISLATION

The Fish and Wildlife Service estimates that the additional facilities required for proper development of wildlife areas under the authority of this legislation would cost somewhat less than $5 million, with annual maintenance and administration expenses of less than $1 million.

AMENDMENTS TO THE BILL

The bill as originally introduced was substantially amended by the committee by the incorporation of many of the provisions of H.R. 7404. The latter bill contained additional provisions with respect to administration and management of wildlife areas and these have been deleted at the suggestion of the Department of the Interior, which states that they will be the subject of later recommendations to the Congress.

The committee strongly urges the enactment of this legislation in the belief that it will benefit not only the new class of users of wildlife areas, but will contribute to the development of interest in wildlife.

CHANGES IN EXISTING LAW

This legislation would make no changes in existing law.

DEPARTMENTAL REPORTS

The reports of the Department of the Interior on H.R. 1171 and on a similar bill, H.R. 7404, are as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 5, 1961.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. BONNER: Your committee has requested a report on H.R. 1171, a bill to increase the public benefits from the national fish and wildlife conservation areas through their incidental or secondary use for public recreation, and for other purposes. As prescribed by this bill, public recreation use would be permitted in these fish and wildlife conservation areas only to the extent that is practicable and not inconsistent with the primary objectives for which each particular area is established. In order to insure accomplishment of such primary objectives, the Secretary of the Interior would be authorized to curtail public recreation use generally or certain types of public recreation use within individual areas whenever he finds such action to be necessary. In addition, the Secretary would be authorized to cooperate with public and private agencies, and with individuals in order to carry out the purposes of the act. He would be authorized to accept donations for such purposes.

We urge the enactment of this proposal, with certain amendments, as hereafter suggested.

This proposed legislation is significant because it will establish a clear-cut formula—which is urgently needed—governing recreational use of the Nation's wildlife refuges, game ranges, national fish hatcheries, and other conservation areas administered by this Department for fish and wildlife purposes. Expanding pressure for such use is inescapable. We need such an enactment as a basis for our administration of these areas in the public interest. In this connection, it should be noted that public recreation use of the Nation's fish and wildlife conservation areas that we administer is already a recognized activity in many of these areas.

Such activities as the observation of wildlife in its native habitat, photography, sightseeing, picnicking, camping, swimming, boating, fishing, and hunting, are now permitted in some areas. Significantly, the number of visitor days of public use of wildlife refuges and game ranges has increased from 3,500,000 persons in 1951, to approximately 11 million in 1960. It now amounts to about 1 million persons a year at hatcheries. Our annual appropriation acts, beginning with the fiscal year 1945, have given recognition to this public use; however, the enactment of this proposed legislation will provide a more definite and effective basis for administration and control of such use, with appropriate safeguards in the public interest.

Under this proposal, it should be noted especially, these areas would be administered for public recreation use to the extent that is practicable and not inconsistent with the primary objective for which each particular area is established. In our opinion, this constitutes wise use of these important resources. Limited public recreational use of these areas, where circumstances permit, helps

to bring about the greatest public benefit from Federal expenditures in such areas.

Our problem of providing for public recreation use within approximately 140 of the 289 national wildlife refuges, on which public recreation is now permitted, is becoming more acute. Pressure for such use has been increasing steadily due to various factors. Increased leisure time of our people, for example, and a need for the type of wholesome public recreation that areas of this kind provide, contributes to this pressure. This problem is chiefly to confine public recreation to limited areas within these refuges so as to avoid interference with the primary functions of wildlife protection and propagation. This proposed legislation will strengthen our administration of these areas in this respect.

Our problem of meeting the public demand for recreation facilities is becoming greater every year for another reason. This is due to the fact that it has been necessary for us to use our limited maintenance funds—which are needed for regular maintenance purposes—to safeguard property and resources in handling such public use. This necessarily results in curtailment of important maintenance functions.

Roads in these areas frequently are inadequate for traffic needs. Notwithstanding public demand, camping and picnicking must be discouraged in most areas because there are no improved sites on which such activities can be permitted. The urgent need to remedy this situation has been called forcefully to our attention recently by an Advisory Committee on Fish and Wildlife, which consisted of representatives of leading national conservation organizations and which has advised the Department on conservation matters.

Public recreation facilities that need to be provided at some 63 of 101 hatchery installations consist of picnic tables, fireplaces, water supplies, trash cans, and sanitary facilities. At certain hatcheries, aquaria and other educational exhibits are needed. Picnic facilities are the main public need on refuge areas. Other facilities are needed in some of the refuges and game ranges. These facilities include boat docks and launching ramps, access road construction, educational exhibits, sanitary facilities, swimming beaches, and camp grounds.

We estimate the probable total cost for construction and development of public recreation facilities that are needed on refuges, game ranges, and hatcheries to be less than $5 million. Annual costs for administration and maintenance of these facilities probably will be less than $1 million. In estimating minimal needs, we desire to avoid unnecessary expenditures and duplication of other facilities that are available to the public within a reasonable distance in national parks, State parks, or forests. Moreover, we do not propose to provide or to maintain recreation facilities where such can be provided and maintained by local agencies directly or pursuant to agreement with this Department. In this connection, it should be noted that section 2 of this bill authorizes cooperation with public and private agencies and individuals. This provision will be helpful to us in carrying out our expressed intent in this regard. Construction and development costs, of course, may be extended over a period of years, in accordance with established budgetary procedures, thereby reducing such costs for any one year.

We recommend the following amendments to this bill:

(1) Page 1, revise lines 7, 8, and 9 to read: "the Secretary is authorized to administer such areas or parts thereof for incidental or secondary public recreation use: *Provided*, That such public recreation use shall".

This amendment has been suggested by the Bureau of the Budget in order to avoid any implication in the opening sentence of the bill that the particular areas do not provide for public recreation. We would not, of course, want such an implication to exist.

(2) Page 2, line 1, following the word "with" insert "other previously authorized Federal operations or with".

(3) Page 2, line 4, following the word "Secretary" insert ", after consideration of all authorized uses, purposes, and other pertinent factors relating to individual areas,".

Foregoing amendments (2) and (3) are suggested because of the fact that in some instances fish and wildlife conservation areas are superimposed on Federal reclamation, flood control, and other Federal water-use projects. In these instances, any provision of public recreation use, or any curtailment thereof, should be undertaken in the light of all authorized uses and purposes applicable to particular areas or projects.

(4) Page 2, line 12, add the following sentences:

"The Secretary may issue regulations to carry out the purposes of this Act. A violation of such regulations shall be a petty offense (18 U.S.C. 1) with maximum penalties of imprisonment for not more than six months, or a fine of not more than $500, or both."

(5) Insert a new section 3, as follows, and renumber the present section 3 accordingly:

"SEC. 3. The Secretary of the Interior may establish reasonable charges, fees, and permits for public use of national wildlife refuges, game ranges, national fish hatcheries, and other conservation areas administered by the Secretary of the Interior for fish and wildlife purposes."

This amendment has been suggested by the Bureau of the Budget in order to preserve administrative flexibility for this Department to implement such user-charge, fee, and permit policy as the President may decide to adopt in the future. We are agreeable to this amendment because of its permissive and flexible nature. We believe that it will be helpful in the solution of any future problems relating to user charges.

The views and recommendations in this report are of equal applicability to the identical bill, H.R. 77.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report to your committee.

Sincerely yours,

FRANK P. BRIGGS,
Assistant Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., January 31, 1962.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. BONNER: Your committee has requested a report on H.R. 7404, a bill to assure continued fish and wildlife benefits from the national fish and wildlife conservation areas by authorizing their appropriate incidental or secondary use for public recreation to the extent that such use is compatible with the primary purposes of such areas, and for other purposes.

We recommend favorable consideration of certain features of this bill, if amended as hereafter suggested. We refer specifically to sections 1, 3, 4, and 7, which are similar in purpose and substance to H.R. 1171, to increase the public benefits from the national fish and wildlife conservation areas through their incidental or secondary use for public recreation, and for other purposes. We submitted a favorable report to your committee on May 5, 1961, on the latter bill. That report sets forth in some detail the general problem of permitting and controlling incidental recreational use of fish and wildlife conservation areas.

We request that our previous report on H.R. 1171 be incorporated by reference in this report. While there is little that we can add to the information contained in our previous report, we wish to emphasize our belief that a statute clearly defining and delimiting our authority for incidental recreational use of these areas is needed. We believe this proposal should be considered as regulatory in nature and not as an expansion or grant of new authority because of the fact that recreational use of these areas has been recognized since 1945 in our appropriation acts and in special enactments relating to particular areas. The question raised by this proposal therefore becomes, essentially, whether or not safeguards will be prescribed for our guidance and in order to strengthen our control in resisting unwarranted recreational use that would have a detrimental effect on these areas. We desire to establish and to maintain a firm policy in this regard. Our position in this matter is in harmony with the views expressed by members of your committee.

This bill contains an additional provision that would be acceptable to us but which is not contained in H.R. 1171 or referred to in our previous report. This provision is contained in section 2. It would authorize the Secretary of the Interior to acquire limited areas of land for recreational development adjacent to fish and wildlife conservation areas, using for that purpose only such funds as may be donated or appropriated by the Congress. Such property could not be acquired, however, with funds obtained from the sale of migratory bird hunting stamps. We believe this authority would be helpful in certain instances by permitting the acquisition of parking areas, limited rights-of-way for access, and small wooded picnic areas adjacent to otherwise prairie-type refuges. In general, our use of the authorization in this section would be very limited, involving not to exceed 20 refuges and a relatively small acreage. No more than 100 acres would be acquired adjacent to any one refuge. Also, we anticipate that no more than

1 to 3 acres, at a maximum of 20 hatcheries, would be acquired for picnic sites or parking areas, a total of not more than 60 acres.

Certain other provisions and purposes, that are set forth in sections 5 and 6, were not included in H.R. 1171 and, consequently, were not covered in our previous report. We recommend that consideration of these particular sections be deferred at this time. These sections involve matters relating to the general administration and management of wildlife areas to which we desire to give additional study and to submit later recommendations to the Congress. From studies thus far made, we believe that revision of these sections would be necessary in any event.

We recommend the following amendments:

(1) Page 2, line 20, in lieu of the word "and" insert the words "game ranges, and other".

(2) Page 3, revise lines 8 and 9 to read as follows:

"SEC. 2. In order to avoid adverse effects upon fish and wildlife populations and management operations of the said areas that might otherwise result".

(3) Page 3, line 12, before the colon insert "in existence or approved by the Migratory Bird Conservation Commission as of the date of enactment of this Act".

(4) Page 3, line 18, after the period, add the following sentence: "Lands acquired pursuant to this section shall become a part of the particular conservation area to which they are adjacent."

(5) Page 4, line 8, following the word "Act.", insert the following sentence: "The Secretary may issue regulations to carry out the purposes of this Act."

The Bureau of the Budget has no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

FRANK P. BRIGGS,
Assistant Secretary of the Interior.

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MISCELLANEOUS FISH AND WILDLIFE LEGISLATION

MAY 9, 10, AND 11, 1961

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met pursuant to call in room 219, Old House Office Building, Hon. Frank W. Boykin (chairman of the subcommittee) presiding.

Present: Representatives Bonner (chairman), Boykin, Miller, Dingell, Rivers, Lennon, Aufuso, Pelly, Gross, Goodling, and Ellsworth.

Staff members present: John M. Drewry, chief counsel; Bernard J. Zincke, counsel; and William B. Winfield, chief clerk.

Mr. BOYKIN. The subcommittee will come to order.

The subcommittee is considering H.R. 1171, a bill to increase the public benefits from the national fish and wildlife conservation areas through their incidental or secondary use for public recreation, and for other purposes.

(H.R. 1171 and departmental report follow:)

[H.R. 1171, 87th Cong., 1st sess.]

A BILL To increase the public benefits from the national fish and wildlife conservation areas through their incidental or secondary use for public recreation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of increasing the public benefits from the national wildlife refuges, game ranges, national fish hatcheries, and other conservation areas administered by the Secretary of the Interior for fish and wildlife purposes, the Secretary is authorized, as an incidental or secondary use, to administer such areas or parts thereof for public recreation: *Provided*, That such public recreation use shall be permitted only to the extent that is practicable and not inconsistent with the primary objectives for which each particular area is established: *Provided further*, That in order to insure accomplishment of such primary objectives, the Secretary shall curtail public recreation use generally or certain types of public recreation use within individual areas or in portions thereof, whenever he considers such action to be necessary.

SEC. 2. In furtherance of the purposes of this Act, the Secretary is authorized to cooperate with public and private agencies, and individuals; and he may accept and use, without further authorization, donations of funds and real and personal property for such purposes.

SEC. 3. There is authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act, including the construction and maintenance of public recreational facilities.

Mr. MILLER. He would have to get his money from some source, either by increase of special appropriations here are appropriations some place else. We certainly are not going to take administrative costs for this type of recreation out of the earmarked funds. It would be illegal. You could not do it under the duck stamps. Pitman-Robinson funds, for example, could not be used for these purposes.

Mr. JENSEN. Let me say that I have given this bill a lot of thought looking into just what would happen if this legislation is finally made law and, when Ben Jensen comes before a committee and asks that a bill be made law which will cost money, that is really something to write home about. I apologize to no one. I am very proud to be the author of this bill because I know that, just for instance, the De Soto Bend which I have spoken of is in a great lakeless area and it is within a 30-minute drive of over a half million people that need a recreation area for their children. There are over a half million people living within a 30-minute drive from this wonder recreation area.

Mr. DINGELL. I would very much like to ask a couple of questions here. I notice that the Department of the Interior recommends certain amendments. Would the gentleman accept these amendments?

Mr. JENSEN. I did not know about them.

Mr. DINGELL. I would very much appreciate having the gentleman's view on these amendments.

Mr. JENSEN. What were the amendments, please?

Mr. DINGELL. They are rather technical as I read the amendments.

Mr. LENNON. Does the witness have a copy of the report with the suggestions?

Mr. DINGELL. They merely tighten up the authority of the Department of the Interior to close the refuges during times when hunting is going on or the birds are nesting, or close up areas which are particularly sensitive.

Mr. JENSEN. I would favor a very strict organization or orders to do just what the gentleman suggests.

Mr. DINGELL. Let me explore with the gentleman what I think is perhaps the basic objection which I have to this bill. I am speaking very frankly and I think perhaps some of my other colleagues might have the same objection to this bill.

We have established a refuge program for acquisition of some 12½ million acres for migratory bird habitat. We have acquired 4½ million acres of Federal refuges and need to establish another 3 million or 3½ million acres from migratory bird stamp receipts. We have a problem here that, if we establish fishing beaches or bathing beaches in these things, we will be utilizing these very short supply funds from migratory bird stamps which are producing less than the amount of revenue we need to establish the kind of program we need to protect migratory waterfowl each year, and, if we put in a restroom or a parking lot or a boating facility or a bathing beach or a picnic area, we are taking away lands which were raised from sportsmen's funds contributed to by duck hunters who have over the years bought the stamps and by duck hunters who will actually go out between seasons and buy extra duck stamps just to contribute to this fund.

I hope sincerely we are going to be able to explore a way out of this problem but my difficulty is that each acre that we take out of this program is the contribution of between 50 or 100 of these duck

hunters who have put their $3 stamp into the acquisition of lands. I am wondering would the gentleman support an amendment to this bill which would simply state that, where improvements are put into these refuges which reduce the carrying capacity of the refuge for purposes of harvesting and producing migratory birds, that these funds or the equivalent value of the acreage retired by the parking lots or restrooms or bathing beaches or something of this sort would be replaced from appropriated funds so as to preserve the contract and moral obligation and agreement which the Federal Government has with duck hunters when they buy these $3 duck stamps?

Mr. MILLER. Would the gentleman yield?

Mr. DINGELL. I would be happy to yield but may we have an answer from the witness, please?

Mr. MILLER. Before he answers I would like to say this: In this instance the gentleman says that this is a lakeless area, a body of water in a lakeless area.

Buying dry land to replace this area that is a wet area is not going to do migratory waterfowl any good. Migratory waterfowl needs this very lake that you speak of for its propagation and for its preservation.

Mr. JENSEN. I agree perfectly.

Mr. MILLER. So that you cannot buy out this.

Mr. JENSEN. I am using the De Soto Bend Wildlife Refuge as an example. I do not know how many wildlife refuges there are in America. Of course, the bill would apply to all of them.

Now, to go to Mr. Dingell's question, I do not believe I should attempt to determine in my own mind or make a statement to the effect that I would be willing to accept the amendment which the gentleman offers. I do not believe that I would have that privilege or that I could be justified in saying "Yes" to your question. I just do not feel that I could do it conscientiously. As much as I would want this bill made law, I do not feel that I should make a deal here that might not be appropriate. I do know this: that the people that are interested in wildlife, the hunters, fishermen, the fellows that like to get a boat and go boat riding, are greatly interested in their families. There is not a finer group of people in the world than people that are interested in hunting and fishing. You know the old saying goes, "Take your boy hunting and you will not have to go hunting for your boy," and no truer words were ever spoken. I am sure that every member of the Conservation Association of America, the Wildlife Conservation Association of America, would be happy to have this bill made law.

Mr. DINGELL. Mr. Chairman, if I may continue here, I think the gentleman has the idea that I have some personal antagonism to this bill.

Mr. JENSEN. No, no; I do not, Mr. Dingell.

Mr. DINGELL. Let me say further to the gentleman that I am not trying to make a deal here or to place him in an embarrassing position. I will actually be willing to have such an amendment drafted and submit it to the gentleman for his study so that he can have a fair chance. I am not trying to commit him. I just wondered whether the gentleman would object to the principle that I mentioned, the idea that, where we withdraw these desperately needed areas by,

making a parking lot or setting up sanitation facilities or campsites which render the area unproductive, would the gentleman favor the use of appropriated funds so that we will not breach our contract with the duck hunters, who have paid this money with the idea that these funds were to be used for migratory bird facilities?

Mr. JENSEN. Mr. Dingell, I just do not feel that I would be justified in saying that I would approve such an amendment. For instance, there are almost 10,000 acres in the De Soto Wildlife Refuge. Without a doubt the Fish and Wildlife Service will see to it that these sanitary facilities and the concessions for the disbursement of soft drinks and sandwiches are placed in the proper location in that great area where it will not affect, to any degree the wildlife refuge facilities.

Mr. DINGELL. Let me say to the gentleman that this is not my experience. I happen to have been a ranger for 4 years in a national park. In this national park we had one of the lovely natural valleys and basins that I think any of us in this room could ever have seen. Not long after I left we got a new superintendent in the park who proceeded to bulldoze down most of the trees to construct a huge paved area and a ski area which does not belong in a national park, which is entirely inconsistent. He put in chair lifts and everything else. He ruined the wintering area for the elk and they have since had to conduct; I am advised, reduction programs to eliminate a large number of elk in the park because they do not have a place to put them and they do not have a place to winter because of this ski area being constructed; and I do not see why we should not have the same thing if this bill passes unless we very carefully safeguard it.

Mr. JENSEN. May I just make this observation: that, if the committee in their wisdom feel that an amendment of that sort should be in this bill, then certainly I would have no objection.

Mr. DINGELL. I thank the gentleman. I really appreciate it because I am seeking to assist the gentlemen in securing passage of this bill and at the same time protect the areas.

Mr. JENSEN. I have hurriedly glanced over these proposed amendments and I can only say this: that these amendments which are proposed to my bill have been recommended by the Department of the Interior who are in charge of such projects and that I certainly would not put my judgment up against that of the officials of the Department of the Interior who have lived with these things for years and years and years.

Mr. BOYKIN. I think they are trying to help in your great work.

Mr. JENSEN. I am sure they are.

Mr. DINGELL. Mr. Chairman, in order to make the record very clear, I would again like to thank our distinguished friend for being with us this morning, for his interest in this field, and for the very fine presentation. I appreciate his being here and I appreciate the very frank and forthright exposition he gave us this morning.

Mr. JENSEN. Thank you Mr. Dingell and members of the committee. I thought Congressman Glenn Cunningham of Nebraska, who represents the Omaha area, would be here to testify.

Mr. BOYKIN. Congressman Jensen, Mr. Cunningham just phoned and said he had a 10 o'clock appointment but would be here a little later to testify on the Jensen bill.

Mr. JENSEN. He introduced a companion bill.

Mr. BOYKIN. Congressman Lennon?

Mr. LENNON. Mr. Chairman, this is the first consideration that the subcommittee has given to Mr. Jensen's legislation. It does, to my way of thinking, have rather broad implications. In reading the report of the Department of the Interior it does appear that at a number of these refuges and particularly at the fish hatcheries we do have now sightseeing, photography, picnicking, camping, boating, fishing, and hunting. The thing that I am concerned about until we hear from the Department itself is as to whether or not we are going to move from the concept of the refuge as such as to a public park as such, and what the conflicts are necessarily going to be.

I am anxious to hear from the Department exactly how many refuges and how many fish hatcheries today provide these public recreational facilities and where the money now is coming from that they are using for the capital construction of these picnic and public recreation facilities.

Mr. BOYKIN. The Department's witness will be here in the morning, Congressman Lennon.

Mr. LENNON. Fine.

I think there are a lot of implications to consider in this. It looks wonderful on its face but I think there are a lot of factors here that are not seriously considered.

Mr. BOYKIN. Are there any other questions of Congressman Jensen? Thank you for coming.

Mr. JENSEN. I thank you, Mr. Chairman and members of the committee.

I hope, of course, that after due consideration the committee will approve the bill and no doubt it will be amended considerably and no doubt strengthened and make a better bill.

Mr. RIVERS. Mr. Boykin is already on record as favoring the bill.

Mr. JENSEN. Fine.

Mr. BOYKIN. Before you arrived.

Thank you, Mr. Jensen.

Mr. MILLER (presiding). Mr. Cunningham, we will be very happy to hear from you.

STATEMENT OF HON. GLENN CUNNINGHAM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. CUNNINGHAM. Mr. Chairman and members of the committee, I will just take 1 minute because I know that the hour is late and we all want to get to the floor. I am here in support of the legislation which I, among others, have introduced. I have a particular interest in this because of my membership on the Interior and Insular Affairs Committee.

It does seem to me that, with this growing demand for recreation areas, that we have a natural way to expand these and make them available to the public through the terms of this legislation. I know that there are problems involved. I certainly would not want the primary use to which these areas are put to be harmed in any way and it may be that amendments to the bill would be proper and necessary to protect the Government's interest and to forestall any

harm or damage being done to the primary use. I do not believe that the cost would be significant. I am sorry that I am ignorant of the total figure that might be involved, but I understand that it would not be a significant figure and it certainly would be a great boon to a very large number of people and particularly those of us in my State of Nebraska where we do not have too many natural areas. We do not have many fish and game refuges and we have a very pressing need for more areas where people can go for picnics and perhaps camp and do a few other incidental things. So that, to those of us who do not come from States that have such a surplus of these recreational areas, it would mean a very great deal to us.

Mr. Chairman, that is as much as I would want to say, to conserve your time.

Mr. MILLER. The fact is that these areas were purchased for the most part with duck stamp funds and were set aside for the primary purpose of protecting and propagating game.

Now the question is whether you can reconcile their use as recreational areas and whether you are not defeating the will of the people who subscribe this money and the contract you entered into with them when you bought these refuges.

I recognize the need for additional recreational areas but I wonder if we are fair in trying to take these away from or destroy the primary use of some of these areas for recreational areas when we ought to face up to the necessity of recreation and provide it through appropriated funds.

Mr. CUNNINGHAM. I can recognize that problem, Mr. Chairman. Of course, it is just like in your committee where we were asked to authorize legislation, and did, to withdraw a huge number of acres from the public domain for the use of our military in Alaska, for example, and this problem arose as to whether or not that would prohibit for all practical purposes the use of that vast number of acres for hunting and other types of recreation.

I would think that that is a legal problem and no doubt the legislation could be amended to make sure that the primary purpose is not harmed because we, of course, do not hunt ducks all during the year and it might be that that is the case.

Mr. MILLER. I merely point that out to you for what it is worth.

Mr. CUNNINGHAM. And I agree with you.

Mr. MILLER. The cost of the bill as estimated by the Department of the Interior could run as high as $5 million.

Mr. LENNON. And then $1 million per year.

Mr. MILLER. There are places where this could be done. We are going into an area which is quite sensitive and I think we have to proceed quite carefully in this area before we throw this thing open.

Mr. CUNNINGHAM. Yes, sir; and I know you will do that.

Mr. MILLER. I want to thank you for your diligence in being here. We understand the situation locally and it has been explained to us and, having some knowledge of the area, I recognize the desirability for recreational facilities in the area.

Mr. Dingell?

Mr. DINGELL. Thank you, Mr. Chairman.

I notice here that the Department of the Interior first of all suggests certain amendments to tighten this bill up insofar as preserving the

basic primary purpose of these wildlife refuges which are set up to propagate, preserve, and provide resting areas and habitat for migratory birds. I imagine that, since I just saw these things this morning and I am a member of the committee, the gentleman has probably not seen these suggested amendments.

Mr. CUNNINGHAM. You are right, sir; but, having so much faith and confidence in the Department, I am sure that, if they have amendments to recommend as they do so often in our committee, they would be for the better.

Mr. DINGELL. I would like to express to my good friend my appreciation for his presence here and I want to commend him highly for this because providing a sufficient amount of public recreation for our people of the kind that this bill would provide is a very important purpose.

I am sure the gentleman is aware of the problem with which this committee is faced on this bill. These lands are acquired under a statute reported out by this committee which provides that the financing comes from sale of duck stamps to hunters at $3 apiece and that this is the principal source of financing if not almost exclusively the sole source of financing of this program.

In effect, this bill would have the effect of utilizing funds provided by duck hunters to provide refuge habitats for the additional purpose of providing recreation for our people in an area where recreation, as I recognize, is very badly needed.

Let me read to you, if I may, some of the additional uses that this land will require. It will require picnic facilities, roads, boat docks, launching ramps, access road construction, educational exhibits, sanitary facilities, swimming beaches, and campgrounds.

Now, each of these areas that will be set aside—parking, campgrounds, and so forth—will be sterile areas for purposes of production.

Incidentally, I would appreciate if my good friend will sit down. I would feel more comfortable.

Mr. CUNNINGHAM. I realized that the hour is late and did not want to impinge on your time.

Mr. DINGELL. This committee is very interested in this bill and I am sure we would be anxious to have the gentleman as comfortable as we would like to be in his committee when we come there.

Mr. CUNNINGHAM. Thank you.

Mr. DINGELL. It occurs to me that each time we pull an acre out of these refuges for construction of campground or construction of an educational exhibit or a museum or a concessionaire facility of the kind that we have, we withdraw from its primary purpose and we take in effect duck stamp revenues and funds that hunters contribute to this program and utilize it for another purpose.

I was wondering if the gentleman would have an objection to an amendment to this bill which would state that lands withdrawn which are purchased by duck stamp revenues should be replaced by appropriated funds.

Mr. CUNNINGHAM. I think I may have or intended at least to mention in my remarks that I would have no objection to amendments that would give us a workable fair bill. I do not know that I fully agree that people who buy a duck stamp should have exclusive use of certain areas of our country because, well, there is a refuge near

Omaha where duck stamps will never ever pay one-hundredth of the cost of establishing that. The general taxpayers have to do that and I think we ought to give them some consideration. I do understand that they have a rather vested right if they put up $3 to help maintain these things, but I think there is a considerable amount of money spent by the general taxpayers that I think we would want to consider, too.

Mr. MILLER. Is that a Federal migratory bird refuge?

Mr. CUNNINGHAM. Yes, sir.

Mr. DINGELL. Under the law as passed, we earmark all of these duck stamp receipts for refuge acquisition and, if we were just to make these open to ordinary citizens for uses other than hunting, and do more than this, we are going to withdraw these lands from their primary purpose. Instead of having a habitat for migratory ducks and geese, we will be having parking lots for citizens. Instead of having marshland to reproduce migratory birds we will be having swimming beaches and boat docks. These are commendable purposes but we can pull an awful lot of acreage out of a refuge and dimish its value to the point of nonexistence unless we exercise the greatest degree of care.

Mr. CUNNINGHAM. Mr. Dingell, I certainly would not want that to happen. I think the primary purpose ought to be maintained.

My position is that duck hunters only use these areas a short time during the year and they just lie idle. Of course, I understand that the marshes have to build up and so on, but actually they stand idle a great portion of the time. It just seems a waste of our natural resources.

Mr. DINGELL. We are anxious to utilize these. The nature of these refuges is so sensitive that the mere presence of people during certain times of the year would prevent the proper utilization of the area by migratory birds.

Mr. CUNNINGHAM. I think an amendment certainly could be considered and no doubt would be in order to discontinue these recreational purposes, for example, during the duck-hunting season. Very few people are going to want to go then anyway. It is usually not the most pleasant time of the year, at least not so in Nebraska.

Mr. MILLER. Mr. Cunningham, the object of these refuges is not as public hunting grounds. Their primary use is not during the hunting season. Their primary use is during the propagation season.

Mr. CUNNINGHAM. To set down in.

Mr. MILLER. No; these are the places where the birds are raised.

Mr. CUNNINGHAM. But in this particular area where I live there are several hundred blinds above and below this refuge area.

Mr. MILLER. This is always the case. This is a pattern around a refuge.

Mr. CUNNINGHAM. Yes.

Mr. MILLER. That is why they have to be so large sometimes.

Mr. LENNON. But the blind area is not in the refuge, not even on Government land.

Mr. CUNNINGHAM. I understand that. Up above and below the refuge is where the blinds are.

Mr. LENNON. That is where you ought to buy land and establish a State park for these recreational facilities as is done by a lot of the States.

Mr. Chairman, I do know through the committee report that they seem distressed that where they now have these recreational facilities of boating, swimming, boat ramps, and dock and picnicking areas are principally at our fish hatcheries. Now, fish hatcheries are not supported by duck stamps. That is appropriated funds.

It seems to me that that is where the approach is to get the folks here from the Department and find out in what percentage of their refuges and hatcheries they are now permitting recreation facilities and to what extent they have developed these recreational facilities and move from there.

I would certainly favor permitting recreational facilities to be expanded, say, at our fish hatcheries if it could be done, but I certainly would not favor using our refuges for public parks and that is what you and Mr. Jensen are advocating. We have to draw a line.

Mr. CUNNINGHAM. I want the legislation to be fair and equitable.

Mr. LENNON. I say to the gentleman that I have a great deal of respect for him and I know how sincere he is in this thing.

What you are suggesting might be worked out so far as your own particular refuge is concerned, but this legislation would affect every refuge in the United States.

Mr. CUNNINGHAM. I am sorry that I am not familiar with too many refuges, but I am only acquainted with my own.

Mr. MILLER. In some refuges in the West, Mr, Cunningham, we have to grow grain in order to feed birds during the periods of their migration because we have destroyed, taking the San Francisco Bay area, all their natural habitat with industrial development and we do not only ask for this for the sake of the birds but we could do it for the sake of the ranchers and the farmers 300 miles away because experience teaches us that, if we do not have something to eat for these birds on a refuge, they go back into the ricefields and the grainfields and they do untold damage.

You have had experience with that in your own State because at one time you were almost going to call out the National Guard to get rid of some duck problems in Nebraska.

Mr. CUNNINGHAM. Yes, and we have thought it might be wise for the Federal Government to release some of its surplus grain to feed some of these birds.

Mr. MILLER. They get surplus grain.

Mr. CUNNINGHAM. It is a pretty difficult job to get it.

Mr. MILLER. I want you to know that, although we have asked some pretty pointed questions, this is merely to bring out the information to you to point up that this is not just a simple problem but has many ramifications to it. I do not want you to feel that anyone here is prejudiced against what you suggest. As a matter of fact, we realize the value of recreation and are very sympathetic to it, and I am sure that, if we can reconcile all of the factors, this committee would look very much with favor on your bill or Mr. Jensen's bill.

Mr. CUNNINGHAM. I just wanted to add one thing so that there was no misunderstanding.

I understand that you do not shoot these birds on the refuge but my point in suggesting the possibility of cutting off recreation during the game season would be to keep it quiet and not disturb these birds that as far as we are concerned are going to come down from the

northern flyway and sit there and then, when they either come or go, get picked off to make it more compatible to the hunters who pay the $3.

Mr. DINGELL. I have no further questions.

Mr. MILLER. Thank you very much.

Mr. CUNNINGHAM. Thank you. You have been very kind.

Mr. MILLER. Anyone who desires to do so may submit statements on this or the other bills we have heard.

Mr. RIVERS (presiding). Are there any witnesses to appear on H.R. 1171?

Give the reporter your name.

STATEMENT OF DANIEL H. JANZEN, DIRECTOR, BUREAU OF SPORT FISHERIES AND WILDLIFE; ACCOMPANIED BY EUGENE E. CRAWFORD, ASSISTANT CHIEF, BRANCH OF REFUGES, FISH AND WILDLIFE SERVICE; AND THOMAS SULLIVAN, ASSISTANT COUNSEL, DEPARTMENT OF THE INTERIOR

Mr. JANZEN. My name is D. H. Janzen, Director of the Bureau of Sport Fisheries and Wildlife.

Mr. DINGELL. Perhaps Mr. Janzen has some of his staff with him to sit at the table.

Mr. JANZEN. I have with me Eugene Crawford, Assistant Chief of the Branch of Wildlife Refuges, who will help me with this testimony. There may be occasions when I may ask help from some other members.

Mr. RIVERS. I doubt that Mr. Janzen ever needs any help.

Mr. JANZEN. I wish I could be sure of that, sir.

H.R. 1171 and H.R. 77 are identical bills designed to increase the public benefits of conservation areas administered by the Department of the Interior, through the Bureau of Sport Fisheries and Wildlife. This would be accomplished by providing for limited public recreational use that is not inconsistent with the primary objectives for which the areas are operated. While the principal function of the national wildlife refuge system is to conserve wildlife, and that of the national fish hatchery system is to propagate fish, it is recognized that many of the units, or parts thereof, in these systems offer opportunities for outdoor recreation which can be achieved without jeopardizing the fish and wildlife resources of the areas.

Our Department has made a favorable report on this proposal and has urged its enactment with certain amendments that will strengthen and clarify the measure. We hope our report will be helpful to your committee in considering this matter.

I am sure the committee recognizes the attractive recreational potentials of many national wildlife refuges. A number of them contain lakes or marshes which are the only public waters in the general geographic area. There are woods on many of them and, of course, wildlife to attract attention. The national fish hatcheries with well-kept surroundings often present a picture of a city park. And the fish themselves are a prime attraction.

With the rapidly expanding recreational demand, it is only natural that the public seek out our refuges and fish hatcheries for this purpose. We have never sought to discourage public visitation, but the

sheer numbers of people desiring to use these areas threaten to destroy the values for which they were established. We believe that, with certain limitations, these units can make a material contribution to the recreational supply. To do this, we believe facilities must be provided to use the areas properly and at the same time draw the people away from the portions that must be managed for the primary purpose of the hatcheries or refuges.

To give a picture of what we are confronted with, permit me to cite the greatly increased demand for recreation on the refuges. The number of visitor-days of public use on 140 of the 289 national wildlife refuges and game ranges has increased from 3½ million in 1951 to 10¾ million in 1960, a 300-percent increase in 10 years. At present, hunting and fishing are the only types of recreational use specifically authorized on refuges. Yet, these activities account for only about one-third of the visitor-days. The other two-thirds of the visitor-days are spent for picnicking, swimming, photographing or observing wildlife, and similar activities. The 101 national fish hatcheries are visited for educational and recreational purposes by 1 million people a year. The main types of recreation engaged in are picnicking and nature studies and to see how a fish hatchery operates.

The anticipated visitor load in 1961 is expected to reach 11½ million at refuges and a little over 1 million at hatcheries.

Beginning in fiscal year 1945, the annual Department of the Interior appropriation acts stated that funds appropriated to the Fish and Wildlife Service (Bureau of Sport Fisheries and Wildlife) shall be available for—

> * * * providing by purchase, construction, or otherwise, facilities incident to such public recreational uses of wildlife refuges as are not inconsistent with the primary purposes of such refuges * * *.

This language was slightly revised in fiscal year 1951, and annually since then the acts have authorized expenditures for recreational facilities on our "conservation areas." However, the Bureau receives virtually no appropriation to provide specifically for recreational facilities at either refuges or hatcheries, and the problem of meeting the public demand for recreational areas is becoming greater each year. It has been necessary to use regular maintenance funds to handle public use, to keep the public within proper confines, and to safeguard property and resources from disturbance and vandalism. At present, roads are inadequate for traffic needs, sanitary facilities are inadequate or entirely nonexistent, and picnicking must be discouraged in most areas because there are no improved sites on which such activities can be directed.

At present, we have no general authorization in basic law to provide recreation at refuges and hatchery grounds. We need clear-cut authority which will provide a definite basis for development, administration, and control of such recreational use, with proper safeguards to protect our conservation areas. This legislation, with the amendments proposed by the Department of the Interior, will meet our needs in this respect.

In considering a reasonable recreation program if the proposed legislation is enacted, we have tried to be realistic in planning to meet minimal needs in each locality and to avoid duplicating facilities

which are available in the vicinity, such as in National, State, or local forests or parks. In general, facilities to be provided at some 63 of 101 hatchery installations will consist of picnic tables, fireplaces, water supplies, and toilets. At certain hatcheries, aquariums and other educational exhibits will be provided. Picnicking will be the main public use of refuges as well as hatcheries. Of the existing refuges, we estimate that 118 will be developed mainly for picnickers. On 22 other refuges and game ranges, larger recreational programs are planned. These programs involve boat docks and launching ramps, road construction, educational exhibits, toilets, swimming beaches, and campgrounds.

We consider the bills to be highly desirable legislation and favor enactment with the amendments recommended by our Department.

Mr. BOYKIN (presiding). Are there any questions?

Mr. RIVERS. May I ask a question?

Mr. BOYKIN. Yes.

Mr. RIVERS. Do you consider that the authorization provided by the provisions of this proposal would put you in competition with one of your sister services, namely, the National Park Service?

Mr. JANZEN. No, sir. I think there would be no competition because, first of all, the primary objective that we have in mind is to safeguard the fish and wildlife values on these refuges. To do this we have to be able to control and manage the people who come to see what we have on these refuges, the general public.

We do not intend to provide any facilities if anybody else will provide them.

Mr. RIVERS. You consider this, then, authorization for you to meet a fact of life.

Mr. JANZEN. That is correct, sir.

Mr. RIVERS. You are faced with a growing demand by a public which is being constantly educated who request and require opportunity to see what the Nation provides in these areas, and, under the law, you just do not have any way of meeting it?

Mr. JANZEN. That is correct, sir.

Mr. RIVERS. And, if you go to the Appropriations Committee and say, "I have 10 million people who come here and clutter up my areas here and I just cannot do anything for them," they will say, "We are not authorized to do that. You have to get authorization." So that, for all intents and purposes, this is really a departmental bill.

Mr. JANZEN. That is correct.

Mr. RIVERS. This is really a departmental bill. It helps you meet a responsibility that you cannot meet in the absence of concrete authorization by Congress for you to meet these minimum requirements which you have so well covered in your statement. Then you have to protect the Government property. You have to protect these hatcheries and keep these people who now are molesting you and causing you trouble with the facilities. This affords you protection. Does that clearly state what you want? You have stated it better than I can.

Mr. JANZEN. Well, sir, I might add that, in our educational system, we are teaching our young people the values of conservation, the values of wildlife, water, land, and as a result the teachers are bringing their children out to these various areas of the Federal Government

to witness some of these things on the ground; so that, two or three schoolbuses come in with kids who want to see what we have on these areas, and we must arrange to have them see what we have on these areas without disturbing the wildlife. They get off the bus and they ask where our sanitary facilities are. We have none.

They have brought their lunches and want to eat their lunch.

We should be able to say, "If you go 2 miles down here there is a wooded area. There is a water supply. There are wastebaskets." Then they would be shunted out of the way, and they would be satisfied and we would be satisfied; but we do not have those facilities for those people.

Mr. RIVERS. Would the swimming and boating facilities that you have referred to in your statement causes any disturbance to your program?

Mr. JANZEN. We would not install those where they would disturb the program.

Mr. RIVERS. These are really an addition to your requirements in certain areas that can be used; is that right?

Mr. JANZEN. That is right. We are in this situation—that in many of our areas, for example, our southern areas where our birds are gone during the summer months, we have a water area. This may have been a water area before we actually acquired it. When we acquire this area, of course, we like to have good relations with the local people. They want to use this water which they have been accustomed to using. Now it is under Federal control. At the present time it is a catch-as-catch-can thing, and the Federal Government gets a sort of black eye for not providing any facilities, no cleanup facilities or lifeguard facilities possibly. There are some types of recreation that are noncompatible with wildlife, but, if the wildlife is not there at that particular moment, there is no reason why the public should not use them and the public can see no reason why they should not use them.

Mr. RIVERS. For instance, I can envision this water skiing. That has caught the country like wildfire. In the summer when the birds are gone north or gone wherever they go during the summer, I can see that the public might utilize a place like that.

Mr. JANZEN. Yes, sir. On water skiing we have to be extremely careful because this is a very disturbing use.

Mr. RIVERS. I am not talking about myself because I do not fool with that.

Mr. JANZEN. Usually water skiing requires certain special conditions. You cannot have stumps. It must be deep enough so that there are no navigation hazards and, where there is water skiing, it is because it can be used there at that time without disturbance to wildlife in that particular location.

Mr. RIVERS. I will close by saying that, in other words, this bill gives us discretionary power to provide to the public the things that you can without injury to your program and your property, and gives us the consent of the Congress to appear before the Appropriations Committee to get funds to carry out the things which you have enumerated.

Mr. JANZEN. That is right, sir.

Mr. RIVERS. I did not understand this before. I want to congratulate you on a fine statement. I understand it fully now. Thank you.

Mr. BOYKIN. Mr. Pelly?

Mr. PELLY. Thank you, Mr. Chairman.

I have just one question. As I recall, you have a number of hatcheries scattered around the country and the various States also have these hatcheries. This would only apply to the Federal refuges and the Federal hatcheries. Would there be an overlapping in any respect where you have a sort of cooperative arrangement with the State game commissions?

Mr. JANZEN. Where there is an overlapping there may be two or three cases where we actually have taken over the State facilities or county facilities and operated them.

I can think of only one right now. I would say that it would be very insignificant. I cannot even imagine that at that particular location that we would try to provide any facility because it is an auxiliary to our main hatchery.

Mr. PELLY. I have been wholeheartedly in support of the cooperative arrangements that can be made in this field for economy and other reasons, and I just wondered whether or not there might be some duplication or conflict or overlapping. I judge from what you have said that there would not be.

Mr. JANZEN. We have attempted in many localities to get a local organization, a private organization or a town or city to take over a picnic ground and maintain it, and we have been successful in some areas; but usually that success depends upon certain prime movers in the locality and, if they pass out of the picture or lose interest, then it falls back on us again to manage.

Every place we can we try to have somebody else take over those local facilities.

Mr. PELLY. We have conservation groups. We have fine sportsmen's groups. They have great interest in such facilities such as you have indicated here and in the protection of these, so that I would hope that you continue on that basis of encouraging local sportsmen's groups to take over and put in some of these improvements.

I am very encouraged to hear you say so.

Thank you.

Mr. BOYKIN. Mr. Goodling?

Mr. GOODLING. I notice that in your statement you said roads are inadequate for traffic. Would your building roads in any way conflict with some of the bills that are now in the process of going through the Congress that have to do with wilderness areas?

Mr. JANZEN. No, sir. They would not. We are just as much interested in some of the wilderness features because we believe that, on some of our national wildlife refuges, we have on a very small scale areas which meet the criteria of wilderness, and certainly there we would want to keep the public out as much as possible. We certainly would not build roads that would make it available for mortorized conveyances. No, the roads we are talking about are, for example, our maintenance roads. That is what they usually are. We build the roads in order that we can maintain our properties, our dikes and dams and buildings and fire protection, but the public uses them. They are not built for public use. They are built for our use under standards which do not meet heavy traffic requirements, so that the public goes in and tears them up and tears up our equipment as well as the public's equipment. If we have a road there it needs to be good enough to take care of the traffic on it.

Mr. GOODLING. I am thinking of one particular spot in my own State where I have always said that the old Civilian Conservation Corps did a disservice when they went into one of these so-called wilderness areas and constructed a road that is now almost a superhighway. They destroyed that particular spot as a recreational area.

You do not propose to do anything like that?

Mr. JANZEN. We do not propose to do anything like this. My entire staff is very wilderness conscious. Put it that way.

I think the very nature of the academic training of these people and their experience leads them to be very sympathetic toward the wilderness concept.

Mr. RIVERS. Will the gentleman yield right there?

Mr. GOODLING. I yield.

Mr. RIVERS. If this bill were enacted into law as now written, what would be your first step in the procurement of funds? How large a budget would you contemplate the first year? Have you gotten that far into the future?

Mr. JANZEN. The program now is not based on 1 year but it was based on what we would want to do for 5 years. It involves about a million dollars a year on an average, or $5 million which will take care of the complete recreation development that we envision on the recreation areas.

Mr. RIVERS. So that, for the first 5 years it will be $1 million a year?

Mr. JANZEN. When we talked about this we were thinking of completing the required need for recreation.

Mr. RIVERS. In the first 5 years you would need over $5 million?

Mr. JANZEN. That is correct. So that we would only have an operation and maintenance requirement following that.

Mr. RIVERS. Would you get any additional funds from admissions, or do you not charge admissions?

Mr. JANZEN. We do not charge admissions but there is a proviso in the bill for admissions as the Department has recommended it and we are seriously considering admissions for special recreational uses such as bathing beaches and special uses of that type.

Mr. RIVERS. Would it be the same for fishing?

Mr. JANZEN. We have not at this time contemplated charging for fishing.

Mr. RIVERS. Thank you, Mr. Chairman.

Mr. BOYKIN. Counsel wants to ask one question and then Mr. Dingell is going to finish.

Mr. DREWRY. Mr. Janzen, Mr. Rivers' question was based on the bill as now written but I believe you mentioned that you recommend certain amendments.

Mr. JANZEN. That is correct, sir.

Mr. DREWRY. Could you just briefly and generally indicate the nature of those amendments and what effect they would have on the bill and on our operations? I do not think you need to go into too much detail but just generally indicate why you felt the amendments were needed.

Mr. JANZEN. Yes, sir.

In our report to the committee we have listed about five changes, some of them very minor. I think the one that might be of particular interest to the committee is the one that is listed as No. 3 in our

report in which we have inserted on page 2, of H.R. 1171, line 4, following the word "Secretary," the words "after the consideration of all authorized uses, purposes, and other pertinent factors relating to individual areas,".

This amendment was suggested because of the fact that, in some instances, fish and wildlife conservation areas—and these are our refuges—are superimposed on reclamation, flood control, and other Federal water-use projects. In these instances, any provisions of public recreation use, or any curtailment thereof, should be undertaken in the light of all authorized uses and purposes applicable to particular areas or projects.

In other words, we have established some of our units on other Federal areas which have been authorized for certain purposes as authorized by Congress and we have to take into consideration those existing uses and we agreed to that when we established our area superimposed on this other Federal area; so that that is one proviso we have in the bill which I think is probably the one of most interest to the committee.

Mr. RIVERS. One of them you have already covered about the charging of admissions.

Mr. JANZEN. That is correct. This one that you mentioned there is section 3.

The Secretary of the Interior may establish reasonable charges, fees, and permits for public use of national wildlife refuges, game ranges, national fish hatcheries, and other conservation areas administered by the Secretary of the Interior for fish and wildlife purposes.

This is a proposal recommended by the Department.

Mr. RIVERS. Then you cover under title 18 for the criminal provisions of the law for vandalism and violation of the criminal statutes in regard to this property?

Mr. JANZEN. That is right.

Now, that particular amendment says:

The Secretary may issue regulations to carry out the purposes of this Act. A violation of such regulations shall be a petty offense (18 U.S.C. 1) with maximum penalties of imprisonment for not more than six months, or a fine of not more than $500, or both.

We need this to control the public because, without means for enforcing regulations, the regulations have little meaning.

Mr. BOYKIN. Mr. Dingell.

Mr. DINGELL. One word in this suggested amendment to the Criminal Code concerns me.

The Secretary may issue regulations to carry out the purposes of this act. A violation of such regulations shall be a petty offense.

Would it not be better in the traditional use of legal language to call it a misdemeanor?

Mr. JANZEN. Yes, this is really what is intended, that it is a misdemeanor as distinguished from a felony or a violation.

Mr. DINGELL. We have always used the word "misdemeanor."

Mr. JANZEN. Yes. We would be certainly agreeable to that, sir.

Mr. DINGELL. There are some other questions I have to ask you about this bill. I am very much disturbed about the possibility of opening these refuges and letting this program become in effect.

Mr. JANZEN. I am sorry, sir, but I just made a statement that I thought misdemeanor was satisfactory but counsel from our Department raises a question with respect to two classes of misdemeanors and I would like if he could explain that.

This is Mr. Tom Sullivan.

Mr. SULLIVAN. I think "petty offense" would be a better term to use as there are two classes of misdemeanors. Petty offense is the lesser class and the penalty prescribed is consistent with your definition in the United States Code on petty offenses.

Mr. RIVERS. Is this consistent with the terminology of the statute?

Mr. SULLIVAN. That is right.

Mr. DINGELL. Getting back to this problem, I am concerned about this business of opening wildlife refuges. We set up these refuges as refuges to preserve and protect wildlife and all of a sudden we find ourselves here opening them for additional public use.

I would like to have a statement from you that you will maintain these as wildlife refuges and not as Coney Island or places where we would have hotdog stands and concessions and things like that. I do not mind having it an incidental use but I feel very strongly that this is incidental. I want it not only nailed down in the bill but I want a statement from you this morning that would be crystal clear.

Mr. JANZEN. I would be very glad to make this crystal clear because I can say right now for my staff and myself that these areas are for the purpose of conserving wildlife, to assist us in the preservation of our migratory waterfowl particularly, and, as far as we are concerned, we are not going to condone any uses that interfere with that primary purpose.

Now, we have two problems and first of all the problem I think that I have pretty well covered is that the public wants to see what we have on these areas and it is pretty hard to say to the general public when they are paying most of the bills, "We have a fence around this area and you cannot see what we are doing or why we are doing what we are doing." So we do have a problem of managing these people while they are in the area.

We think we can do it better, leave them satisfied and leave ourselves satisfied if we can draw them into areas where they will not interfere with wildlife rather than cut them off the area entirely or let them run loose at their will, which is something we just cannot do.

I would like to add that we are engaged in a rather extensive wetlands acquisition and preservation program. That program is going to require the cooperation of the general public. It is going to require the cooperation of organized people in localities where we want to acquire these wet lands.

If we move into an area, leaders in the community immediately check. We have seen copies of letters that this community has written to another community: "You have a national wildlife refuge. How do they operate it? What has it contributed locally?"

Mr. DINGELL. I am aware that that is the way the Park Service and and National Forest Service and Bureau of Land Management always feel. Are you people going to stand up against these pressures and see that the refuges are serving the purpose for which they are established or are you going to buckle under and have high speed highways?

I have seen national park after national park suffer the change in

its function. I was a ranger for 4 years in a national park and I finally quit that job because it was my job to pack lumber to the back country to make two Chic Sales in the back country because of the heavy use of that part of the park. It has been my experience that the national parks will have beautiful primitive areas cut down for a ski area and then they will put in a restaurant and then the elk herds are decimated because they have no wintering spot.

Is this going to happen in your Department because of this bill?

Mr. JANZEN. No, sir. As far as I am concerned, and as far as my staff and the Department are concerned, there is not going to be any of that occurring. I think our Service has a reputation for being quite stubborn. In some quarters they say we are quite reactionary and do not go along with the advances of civilization.

We consider that we have a primary objective and that is going to be fully carried out.

Mr. GROSS. Would the gentlemen, before he goes to something else, yield to me for a moment?

Mr. DINGELL. I will be glad to yield.

Mr. GROSS. I want to join with my colleague from Michigan in his apprehension in this respect. I have been to your duck refuge, your waterfowl refuge down at Salisbury, at Cambridge on the eastern shore of Maryland.

Mr. JANZEN. It is probably the Blackwater Refuge.

Mr. GROSS. It is a big waterfowl refuge down there. You can drive around the road. There are "No parking" signs and you do not disturb the refuge.

If you are going to go into a place like that and, in the open space between the ponds or lakes or arms of the bay down there, put in recreational facilities, I think you are going to destroy at least some of the value of that refuge. If you are going to put in a big recreational plant of some kind or another, I think you are going to destroy the value of it.

I join with my colleague. That I do not want to see happen because without those refuges the waterfowl situation is going to be in a much more serious condition that it presently is and the Lord knows it is bad enough now. I just want to say that I share his apprehension. I am willing to go along with the bill that provides for certain recreational facilities. In some places you can put in quite a large recreational plant and in others you cannot put in much of anything without destroying the value of it.

Will you agree to that?

Mr. JANZEN. That is exactly right.

Mr. GROSS. As in the case of this refuge down there.

Mr. JANZEN. That is exactly right. In a case like that any development would be for the purpose of putting it off to one side so that, when the people have satisfied themselves as far as looking at the birds are concerned, they must go to this picnic corner. Maybe they will eat their lunch, but it will be away from the wildlife area. Instead of them sitting alongside of the road and eating their lunches, we will say, "You must go to this picnic area if you want to eat your lunch."

Mr. GROSS. No matter how well intentioned people will be, there will be children or even adults who will forget themselves. They will be tossing rocks at these geese and having them in the air constantly.

There are any number of things that can be done to damage this area as a wildlife refuge. I just do not want to see that happen.

Mr. JANZEN. Well, I certainly am glad to hear you say this because we do need assistance sometimes in standing up to some of these pressures. There is no question that with this authority there will be pressures to put recreational areas in places where they should not be; in other words, where they will interfere with wildlife. We will have to stand up to that and, if this committee makes this crystal clear that this is what they want, it will be a big help to us.

Mr. GROSS. Thank you.

Mr. DINGELL. I want to go into four considerations that have come to my mind in connection with the bill.

I would like to ask you, first of all, whether it is not, as a general statement, true that admitting people to these refuges has a harmful impact on the refuge purpose. Is this not true as a general statement?

Mr. JANZEN. Well, not if you look at the problem of wildlife conservation as a whole. In other words, to gain acceptance of regulations, to gain acceptance of this philosophy that wildlife shall be preserved requires that the public must be not only educated but aware of what we have and why.

Mr. DINGELL. What you are telling this committee, then, this morning is that you are trading a little bit of poor protection of these animals for public acceptance which is probably a commendable motive, but, reduced to its simplest, that is what you are saying?

Mr. JANZEN. Yes, but just to this degree: that we do not believe that that usage if properly regulated will interfere enough with the objective that it could be measured.

Mr. DINGELL. Let us take construction of museums, exhibits, parking lots which you will require, additional roadways, trails, and maintenance, operation of additional equipment, parks and sheds and so forth which this bill will require, am I correct?

Mr. JANZEN. That is correct.

Mr. DINGELL. This will in effect reduce the carrying capacity of these refuges in one degree or another. Is this not a fact?

Mr. JANZEN. To a very minor degree. It will be about parallel, for example, to where we have to build a headquarters site and we take that much land out of wildlife use but we try to locate it where it will have minimum effects. To that degree, yes.

Mr. DINGELL. These refuges are acquired by duck stamp money, are they not?

Mr. JANZEN. That is right.

Mr. DINGELL. So that, when you acquire a 1,000- or 2,000-acre refuge by duck stamp funds and you put in this recreation as a secondary use, you are going to require something on the order of 2 or 4 or 6 or 10 acres of this land to be used for administrative purposes, a large part of which will be going into these secondary uses for campgrounds, picnic grounds, museums, and parking lots to handle additional visitors' automobiles, is that not right?

Mr. JANZEN. Yes, we will have to provide for that.

Mr. DINGELL. This leaves us in the situation where duck stamp funds are going to be utilized for areas for these peripheral uses, is that not correct?

Mr. JANZEN. That is correct.

Mr. DINGELL. Does it not seem fair in our responsibility to the hunters who buy these duck stamps with the idea that they are creating refuge grounds for ducks that we should say that these expenditures shall be from appropriated funds and the areas set aside for these other purposes shall be from appropriated funds and that, where these lands are withdrawn, they should be replaced by sufficient funds to replace them? Is this not just basic fairness?

Mr. JANZEN. If we could be assured that appropriations would be made available to purchase lands for recreational purposes, that would be one thing; but, if the authority for recreation would depend upon those appropriations, unless and until we had those appropriations we might not ever gain the authorization we are requesting in this legislation which we think we need now to control the public.

Mr. DINGELL. If this committee says you cannot conduct the recreational operation on duck stamp lands, that would mean that you would have to go to the Appropriations Committee to get the money, is that right?

Mr. JANZEN. Much of this or a goodly portion of this recreational use will be on duck stamp lands.

Mr. DINGELL. I am talking about campgrounds and things of that sort. This should be from appropriated funds in my view after the agreement you make with the hunter when he buys his $3 duck stamp, am I wrong on this?

Mr. JANZEN. Let me put it this way. On practically all of these areas, because we have to buy entire ownership we do buy lands some of which have very little value for migratory birds. We exchange some of those for other lands which are of greater value but sometimes even that is not practicable in the interest of running a straight line boundary which in the end cuts down on your operational costs. So that, on most of these areas we do have room for picnic grounds and so forth that would not interfere with the migratory waterfowl values.

Mr. DINGELL. Let me get on to another area here.

Am I incorrect in saying that very frequently, if this bill goes through, you are going to face pressures to open this land to recreational use without a proper amount of funds to administer and protect it?

Mr. JANZEN. I expect that is right, sir.

Mr. DINGELL. Is there any reason why this committee then should not put a very clear requirement that land shall not be opened until each year the Secretary makes a finding that adequate funds are authorized and appropriated to administer and protect the resource?

Mr. JANZEN. The only question I would have with respect to that is how that might be interpreted. At the present time the public is permitted with certain restrictions to view wildlife on these areas, and at the present time we have to use funds which are appropriated for wildlife purposes to furnish such patrol and such control of these people and such recreational facilities, if you call improving a road for people to drive over a recreational facility. We are at the present time furnishing this recreation to that degree in the interest of assisting in the preservation of wildlife.

Would that be precluded under this statement?

Mr. DINGELL. I am just asking you. I would say the Secretary would have to make a finding before he would let people go into these areas and recreate. Is there anything wrong to having him find that he has the money to properly administer the resource before he opens these areas? You are managing these areas as a refuge and not as recreational areas. If this is true, why should we not have the Secretary say before he opens it each year that he has a sufficient amount of money to open it?

Mr. JANZEN. I would say that would be satisfactory if it is considered that at the present time we would be able to make such a declaration without this authorization.

Mr. DINGELL. You would be making a declaration, not I; or the Secretary would.

Mr. JANZEN. It depends on how it was written into the bill. This is what would bother me: Would there be enough room in the interpretation so that we could use discretion as to the degree to which we would be able to take care of these people and permit them to come onto the area?

Mr. DINGELL. Thank you very much.

I want to apologize for taking the time of the committee.

Mr. BOYKIN. Thank you very much. That was a splendid statement.

Mr. Poole?

STATEMENT OF DANIEL A. POOLE, EDITOR, OUTDOOR NEWS BULLETIN, WILDLIFE MANAGEMENT INSTITUTE—Resumed

Mr. POOLE. My name is Daniel A. Poole. I am the editor of the Outdoor News Bulletin of the Wildlife Management Institute.

Mr. Gutermuth was scheduled as the witness and is unfortunately ill and unable to be here.

On H.R. 1171, Mr. Jensen's bill, relating to recreation on national wildlife refuges, the discussion as it developed stressed an important point.

I wish to comment just briefly.

That is that we do not view this proposal as having the objective of maximizing recreation on national wildlife refuges. We think that recreation should be permitted on the national wildlife refuges only where it will not interfere with the primary purpose of those areas for the rearing and production and providing of habitat for game.

I think that generally we support the objectives of this proposal inasmuch as recreation is now a problem on the wildlife refuges. We are living with it now. It exists. It is bound to grow. It has grown in the past. We have to have a way to accommodate the people that wish to go to the wildlife refuges, to provide sanitary facilities, and to restrict their movements to the degree that they will not interfere with the wildlife purposes for which these refuges have been established.

I think in that aim that possibly revision of the preamble of this bill and of the first two or three sentences of the first section to put the horse before the cart here would make sure that the purpose of this bill is to assure that the fish and wildlife benefits from the wildlife refuges will be protected and that recreation will be a secondary or incidental use.

Mr. MILLER. You say that you recognize that there is recreation on these areas and that we have to live with it, and I agree with you that this is a pressing point; but I think that you, as a sportsman representing the wildlife people, should begin to stress to the States and to Congress the necessity for providing recreation as a corollary of your principal objective because we might be able to educate the people but can we educate the wildlife to the joint usage of these things? In an area where water is scarce, I can see where a beautiful 7-mile lake lends itself to recreation and the demand and pressure for recreation is there greatly; but someone has to stand guard on the wildlife protection phases of it.

I can see where water skiing on a lake of this kind when birds want to nest or rest is not going to be very beneficial to birds.

Mr. POOLE. I agree with you, Mr. Miller, and my point being that we are living with this problem now and have no real authority to cope with it. A proposal such as this would give the authority to cope with it and thereby we will have to take these problems up one at a time as they occur at the various refuge units.

Mr. MILLER. The pressure for recreation is going to be so much greater than the pressure for conservation because people who are not conservation-minded want recreation. So that conservation groups I think must reorient their thinking on this subject and get into the field of stimulating people to get recreation and to provide it away from these conservation facilities that are here and on properties that were purchased with the moneys of conservationists.

Mr. POOLE. I agree. I think it is a very important aspect and should be considered in this overall proposal.

Mr. MILLER. I think you can spend a lot of time editorializing and encouraging and educating people and perhaps forget some of our things that are solved or are dead horses in the past in this field and take a good new look at it. It is here and, remember, I just had occasion to look up some statistics and the population in this country within the next 60 years will be someplace in the neighborhood of around 500 million people and, if the pressure for recreation today is what it is, just imagine what it is going to be 60 years from now. That is only three generations away in the cycle of man and a few more in the birds.

Mr. LENNON. Where does the money come from for the construction and development of these recreational facilities within the refuge areas?

Mr. POOLE. It is my understanding, Mr. Lennon, that minimal development is anticipated.

Mr. LENNON. I am talking about that that is now an accomplished fact. I defer to the report of the Interior Department which states that it is an accomplished fact that in a number of these refuges and fish hatcheries they have now recreational facilities. That is what it said in the report and I assume it is true.

Where did that money come from, and on what authority, to build these and construct and develop these recreational facilities in these areas?

Mr. POOLE. I defer to the Fish and Wildlife Service.

Mr. LENNON. I would like to have that because I think it is pertinent.

Mr. PARKER. I do not know whether Congressman Lennon would want a complete answer today or did you want to wait until the Department witness comes before you?

Mr. LENNON. It is appropriated funds.

Mr. PARKER. It is money that is being used now for operation and maintenance of the refuges. In other words, we have a road going through in a refuge. The public uses that road.

Mr. LENNON. You have picnic facilities. You have outdoor fireplaces. I have seen these things in these areas. I want to know where they built with maintenance funds the refuge area itself.

Mr. PARKER. Let me put it this way. You must consider the various types of areas. We have hatcheries and national wildlife refuges, waterfowl areas, and national game ranges. Some of these facilities were built in the CCC days a long time ago. Others were built where we have a secondary authority superimposed on a corps reservoir or reclamation reservoir. Other facilities are built under specific legislation such as the Crab Orchard Act that set that particular area up. There is specific authority for it there and in the appropriation bill each year there is reference to development of some recreational facilities.

Mr. LENNON. Within these specified areas?

Mr. PARKER. But there is no organic authorization for it.

Mr. LENNON. Mr. Miller stressed the fact that the land for these refuges was actually purchased and they were built by duck stamp purchasers and I was trying to find out if you folks were using that money.

Mr. MILLER. They cannot use it.

Mr. PARKER. As far as duck stamp funds are concerned, they are now all earmarked for land acquisition only. Prior to the amendment to the act in 1958 they could have been spent for development and maintenance.

Mr. LENNON. You folks are finding yourselves in a position now that you cannot take maintenance funds and meet the demand for construction and development of recreational facilities; are you not?

Mr. PARKER. That is right; but I would point out to the committee that this bill is broad and includes hatcheries and the game ranges as well as the areas that were acquired with duck stamp funds. There are public lands that have been established as national wildlife refuges so that this is a broader authority that would be aimed specifically at the land acquired from the duck stamps.

Mr. LENNON. Do you not think that, if this bill were enacted into law, even with the amendments we are talking about, that in these refuges that you have near metropolitan centers of population, even though it was inimical to the interest of the concept of conservation, the pressure would be so great by the people in those areas for the use of this refuge for recreational purposes that with this legislation passed you would almost have to bow to it and say, "Come on in. We have to make room for you." That is the theory I have. If you folks could pick and choose after this Jensen bill was passed and say, In this one, yes, it is appropriate and can be done," that would be one thing: but, where you get some refuges within 50 miles of large centers of population and there is no other area where people can go for

recreation, do you not know that they will come to you and say, "Let us in" or come to the Congress and say, "Amend the bill and let us in."? That is my fear.

Mr. MILLER. That is my fear also. The next thing is, Are we not getting you into the same area as the national park system? We have a national park system that takes care of recreational facilities. If you can say, "We can spare this much of this refuge," then let the national park system go in there and police it. You are not in the park business. You are in the conservation business.

Mr. PARKER. I would agree with you, Congressman Miller, but I would make this observation: that most of the recreational plans that are contemplated would be very minor, minimal improvements.

Mr. LENNON. Let me interrupt the gentleman.

Your report does not say so.

Mr. MILLER. $5 million worth.

Mr. LENNON. Boat ramps. What does "boat ramps" mean? Everybody that has an outboard motor can run up a stream where ducks are nesting.

Mr. PARKER. I think, Congressman Lennon, that that refers to the 22 areas and I think they fall in the category that you were talking about of selecting those where recreation might be carried out, and that is what we had in mind in those 22 areas.

Mr. LENNON. It is something to think about.

Mr. MILLER. It is something we have to think about.

Mr. PARKER. We hope to have an opportunity to discuss this more thoroughly.

Mr. MILLER. We have a responsibility and I want you to know that, as far as my membership on the committee, I am going to take this responsibility very seriously and I want to be shown. I am going to protect the fish and wildlife.

Mr. PARKER. I will assure the Congressman that we are vitally concerned about it and recognize that our primary responsibility in our Bureau of the Government is conservation and preservation of fish and wildlife.

Mr. BOYKIN. Thank you very much.

Mr. DINGELL. Could I just ask, Mr. Poole, would it be possible for you to submit to the committee the language of the proposed changes that you want to nail down very strongly, the preamble?

Mr. POOLE. I would like to consult with others of the national conservation organizations and do that.

Mr. DINGELL. This will be splendid.

(Following material furnished for insertion:)

WILDLIFE MANAGEMENT INSTITUTE,
Washington, D.C., May 16, 1961.

HON. FRANK W. BOYKIN,
Chairman, Subcommittee on Fisheries and Wildlife Conservation, House Committee on Merchant Marine and Fisheries, House Office Building, Washington, D.C.

DEAR CONGRESSMAN BOYKIN: At the hearing on H.R. 1171 and H.R. 77 before your committee last week, several committee members and witnesses expressed concern that the present language of those companion bills might facilitate inordinate recreational encroachment on the national wildlife refuges and other conservation areas. All agreed that the refuges should be protected from incompatible uses. It was pointed out that the Secretary of the Interior lacks adequate authority to cope with problems created by recreation seekers.

During the course of the hearing, Congressman Dingell requested that conservationists develop substitute language embodying suggestions that were made. The attached, which would take the place of the preamble and much of section 1 of H.R. 1171, was drafted in consultation with Joseph W. Penfold, Izaak Walton League of America; Thomas L. Kimball, National Wildlife Federation; Charles H. Callison, National Audubon Society; and Dr. Ira N. Gabrielson and C. R. Gutermuth, Wildlife Management Institute.

Sincerely,

DANIEL A. POOLE,
Editor, Outdoor News Bulletin.

A BILL To assure continued fish and wildlife benefits from the national fish and wildlife conservation areas by authorizing their appropriate incidental and secondary use for public recreation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of existing and greater future public demands for recreational opportunities on refuges, game ranges, national fish hatcheries and other conservation areas administered by the Secretary of the Interior for fish and wildlife purposes and of the imperative need to assure that any permitted recreational use is not incompatible with the primary purposes for which the aforementioned areas were acquired or established, the Secretary of the Interior is authorized, as an appropriate incidental or secondary use, to administer such areas or parts thereof, and to acquire necessary adjoining areas, for public recreation, when in his judgment, public recreation can be an appropriate incidental or secondary use: *Provided*, That such public recreation use shall be permitted only to the extent that is practicable and not inconsistent with the primary objectives for which each particular area is established: (continue line 2, page 2).

Mr. MILLER. Remember us all to Mr. Gutermuth.

Mr. BOYKIN. Mr. Callison?

STATEMENT OF CHARLES H. CALLISON, ASSISTANT TO THE PRESIDENT, NATIONAL AUDUBON SOCIETY—Resumed

Mr. CALLISON. Inasmuch as I shall be unable to be here tomorrow or the next day, I should like to file with the committee a statement by the National Audubon Society on the bill being considered in this present series of hearings.

Mr. BOYKIN. We would be delighted to have you do that, without objection.

(The statement referred to follows:)

STATEMENT BY CHARLES H. CALLISON, ASSISTANT TO THE PRESIDENT, NATIONAL AUDUBON SOCIETY, ON H.R. 1171

The National Audubon Society recognizes that public visitation to a national wildlife refuge, to the extent compatible with the primary purpose of the refuge system, offers an important educational opportunity. Here citizens may study at close hand not only the wildlife resources produced on, or protected by, the refuge, but the kind of habitat that it takes to produce these resources.

Therefore we approve the objective of this legislation, but we especially commend the language that makes it clear that the primary purpose and function of a national wildlife refuge or national game range is the conservation of wildlife. I hope this point will be further stressed in the committee report. Recreation must ever be kept strictly a secondary use of the refuges, because too much public visitation, or visitation not carefully controlled, could wreck the essential habitat. In the case of some endangered species—the whooping crane is the classic example—sheer human disturbance could be disastrous.

The national wildlife refuges do make an essential and major contribution to recreational opportunities in the United States. They do this by protecting and maintaining the migratory birds that provide recreation—for millions of bird watchers and nature students as well as for hunters who seek the game spe-

cies—all along the flyways. The refuges, often publicized as being chefly valuable for game species, also provide important nesting, resting and feeding areas for many nongame, migratory birds.

Thank you for the privilege of presenting our views.

Mr. MILLER. What is the nature of your statement?

Mr. CALLISON. Our statement, Mr. Miller, is in support of this bill.

We make a particular point in connection with this bill, having to do with the provision of public use facilities or recreational facilities on national wildlife refuges, that the language must be drawn very carefully to make it clear and to keep it clear that recreational use by the public must be strictly an incidental and a very secondary use of the refuges, that their first purpose is wildlife conservation; and in our statement we urge the committee to nail down this point more firmly in your committee report.

Mr. MILLER. I hope you do not think the committee should spend any money in the field of recreation, desirable as it is, because our money is for conservation purely and simply.

Mr. CALLISON. We see some conservation education value in public visitation to these refuges that is quite important. The people are going to the areas now for this purpose and it is important for the Bureau of Sport Fisheries and Wildlife to be in a position to control and handle that public visitation; but it should be controlled and handled.

Mr. MILLER. Do you realize at this time, Mr. Callison, that if in the name of education of the public for conservation purposes we begin to dissipate our very limited funds, we are not going to do a very good job in either conservation or education. Do you agree with me?

Mr. CALLISON. I realize that.

Mr. MILLER. You shake your head and the girl cannot put that on the record.

Mr. CALLISON. I agree with you, Mr. Congressman, that this is something that we have to watch very carefully.

Mr. DINGELL (presiding). Mr. Penfold had to leave and just wants his statement filed.

Without objection, it will be filed for the record.

(The statement referred to follows:)

STATEMENT OF THE IZAAK WALTON LEAGUE OF AMERICA WITH RESPECT TO H.R. 77 AND H.R. 1171

Mr. Chairman, I am J. W. Penfold, conservation director of the Izaak Walton League of America. The league is a national, citizen membership organization devoted to the conservation and wise use of America's natural resource wealth.

We support the principles and objectives of this legislation.

In August of 1958 I wrote an article for our national magazine, Outdoor America, in which the problem was described in some detail. A marked copy is submitted for the committee files. The only change in the problem in the intervening years is in intensity. Public demand for recreation oportunity expands year after year.

Unquestionably, wildlife refuges and other wildlife conservation areas can and do serve valuable public recreation purposes. But such recreation must not be permitted to conflict with, damage, or supplant the wildlife purposes for which the areas were acquired and established.

It is clear from the language of the legislation that the sponsors have no intention whatsoever that their proposal result in deterioration or damage to the wildlife values of these national areas. Rather it is surely their intention that, as a result of providing the Secretary of Interior with needed authority, which he does not now have, he may manage, supervise, and make appropriate pro-

vision on these areas for public recreation of such types, and at such times and locations, as will protect wildlife values.

We believe, therefore, within the spirit and intent of the legislation, that the committee might wish to tighten the language to make it still more abundantly plain now and in the future that these wildlife conservation areas are established for wildlife and its benefits to the public, and that public recreation, which is of primary value in other categories of areas, is secondary here and a public bonus where it appropriately can be accommodated.

We believe that the Secretary should be authorized to acquire lands and waters adjoining wildlife conservation areas when that would serve to provide public access, parking, sanitary, and other public use facilities without encroachment on wildlife habitat.

As the situation exists today, there is ever-increasing public recreation use of these areas. The Secretary has no authority or appropriations to manage such recreation properly to the advantage of the recreationist and for the protection of the wildlife. We believe such legislation as H.R. 77 and H.R. 1171 is required and urge the committee to approve it with such strengthening language as is appropriate.

Mr. DINGELL. Without objection, I will place in the record at this point a statement presented by Louis S. Clapper, of the National Wildlife Federation; a letter addressed to Chairman Bonner from the Sport Fishing Institute; and a statement for the record by the editors of National Wildlands News.

(The documents referred to follow:)

STATEMENT PRESENTED BY LOUIS S. CLAPPER, CHIEF, DIVISION OF CONSERVATION EDUCATION, NATIONAL WILDLIFE FEDERATION, H.R. 77 AND H.R. 1171

Mr. Chairman, the National Wildlife Federation is a grassroots private, nonprofit organization dedicated to the furtherance of conservation objectives through educational means. The National Wildlife Federation is made up of 50 affiliates in 49 States and the District of Columbia. In turn, these affiliates, and other individuals who support the National Wildlife Federation number an estimated 2 million, thus representing a fair cross section of the general public. We appreciate this invitation to appear here today.

The National Wildlife Federation has gone on record as supporting the principle of multiple-use management of public areas. The National Wildlife Federation also has adopted a resolution urging the establishment of adequate public recreational areas and facilities, urging the establishment as part of an overall land and water planning on National, State, and local levels. We believe that the identical measures H.R. 77 and H.R. 1171, are in accord with these principles.

Unquestionably, many national wildlife refuges, game ranges, and fish hatcheries contain assets of recreational value to the general public. If the public can be served in this respect without harm to primary objectives for which these particular areas are established, additional benefit will accrue.

We believe this safeguard is provided for in H.R. 77 and H.R. 1171.

It is our understanding that the limited amount of public recreational use presently provided for on national wildlife refuges, game ranges, and fish hatcheries has been made possible by using maintenance money appropriated to the Bureau of Sport Fisheries and Wildlife. It is believed that authorization provided for in these measures would provide a basis for obtaining appropriations for these public recreational purposes.

The Advisory Committee on Fish and Wildlife to the former Secretary of the Interior Fred A. Seaton recommended authorizations of this type and many individual conservation leaders have supported this principle. The National Wildlife Federation, therefore, urges favorable consideration be given to these proposals.

Thank you for the opportunity of appearing.

SPORT FISHING INSTITUTE,
Washington, D.C., May 4, 1961.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN BONNER: The Sport Fishing Institute wishes to express its support of H.R. 1171, introduced by Congressman Jensen, to increase the public benefits from the national fish and wildlife conservation areas through their incidental or secondary use for public recreation, now scheduled to be heard before the Subcommittee on Fish and Wildlife.

There is no question so far as my organization is concerned that the proposed legislative authority, to permit incidental or secondary administration by the Secretary of the Interior of such areas for public recreation, is badly needed. I served for several years on the recent Interior Department Advisory Committee on Fish and Wildlife and became informed on many of the details of several aspects of the problem. It became abundantly clear that it is increasingly necessary to recognize the highly important, though secondary use of those areas for public recreation and the urgency for administrative authority to permit adequate management and maintenance in the interest of the primary purposes for which the properties were acquired.

At the same time, public recreation use is very great and should not be prevented so long as it does not interfere with primary purposes but must be adequately managed and controlled. This will require some additional funds for which adequate authority presently exists. For example, last year, then Assistant Secretary of the Interior Ross Leffler reported that a total of 9,936,000 visitations occurred in 1959 on national wildlife refuges alone. This was about an 11-percent increase over the previous year.

As usual, the most popular type of recreational use was sport fishing. This leading attraction accounted for 32 percent of all visitations, though somewhat below the previous year due to drought conditions. It required the combination of several other recreational uses—photography, picnicking, swimming, and/or nature studies—to exceed the popularity of fishing as an attraction to the refuges, even though this is only a byproduct of the refuge system.

The most popular area in 1959 continued to be the 195,000-acre Upper Mississippi River Wildlife and Fish Refuge, which had 2,860,000 visitors, of which about 1,300,000 were sport fishermen. This area extends for 284 miles along the river from Wabasha, Minn., to Rock Island, Ill.

The Crab Orchard National Wildlife Refuge in southern Illinois recorded the most diversified recreational use. The 1,308,000 visitors to this 44,000-acre area included 23,800 for hunting, 70,300 for fishing—again the leading use. The remaining 1,213,900 visitations were for a multitude of activities, such as picnicking, camping, swimming, dog trials, and nature observations.

Therefore, Sport Fishing Institute urges your committee to act favorably upon this proposal (H.R. 1171), and requests that this letter be accepted as its official statement in support thereof and made a part of the record of hearings.

Respectfully yours,

RICHARD H. STROUD,
Executive Vice President.

A STATEMENT BY DEVEREUX BUTCHER, EDITOR, FOR THE EDITORS OF NATIONAL WILDLANDS NEWS ON H.R. 1171

The editors of National Wildlands News approve of the purpose of H.R. 1171 to increase the public benefits from the wildlife refuges and ranges administered by the Bureau of Sport Fisheries and Wildlife, which purpose, specifically, is to increase their use for public recreation.

We are particularly sympathetic toward those provisions of the bill which say "that such public use shall be permitted only to the extent that is practicable and not inconsistent with the primary objectives for which each particular area is established," and "that in order to insure accomplishment of such primary objectives, the Secretary shall curtail recreation use generally or certain types of public recreation use within individual areas or in portions thereof whenever he considers such action to be necessary."

We believe that these provisions are of vital importance, that they must be strictly adhered to, and that the general public must be helped by the Bureau of Sport Fisheries and Wildlife, during public use at each refuge, to understand

that the primary purpose of the areas is to preserve wildlife, and that recreation use is secondary in importance to the primary purpose, and must be controlled and regulated so as not to defeat the primary purpose.

Failure to control and regulate public use of these refuges and ranges could lead to the disturbance of the birds and mammals for the protection and preservation of which the areas have been established.

While the regulations governing public recreation of each area may vary from refuge to refuge, it perhaps would be well to say that, in general, public observation of the wildlife should be considered the most appropriate form of enjoyment which the public can derive from visiting the refuges, and that this use should be emphasized above any other.

Wherever wildlife observation is the principle form of public use, it should be strictly confined to a specific part or parts of the refuge area, as, for instance, at Bear River National Migratory Bird Refuge, Utah, the dikes surrounding the eastern pool probably would be sufficient for public observation, and these would provide a loop trip. The larger remaining part of the refuge would remain undisturbed. A picnic area and restrooms near the refuge entrance at headquarters would be necessary, but any further use of the refuge or any additional facilities probably should not be provided.

Guide and naturalist interpretation service should be provided at most, if not all of the more heavily used refuges and ranges to increase public enjoyment and understanding of what visitors see in the areas. This will require an appropriation of funds sufficient to enable the Bureau of Sport Fisheries and Wildlife to employ naturalists for this purpose. This naturalist service would be similar to that in the national parks and monuments, and, as at the parks and monuments, it should be supplemented by the formation of natural history associations under the direction of refuge personnel and interested individuals in neighboring communities, operating independently of Government, to provide at refuge headquarters pertinent literature for sale and free Government pamphlets to visitors. The funds from such sales would be available to further the interpretive program at the particular refuge.

Fishing, when permitted in a refuge, should be limited to areas where it will cause least disturbance to wildlife. Powerboating and water skiing could cause serious disturbance of waterfowl resting, nesting, and feeding areas, and if such a form of recreation is permitted at all, as on the reservoirs of the Bureau of Reclamation and Army Engineers, it, too, should be strictly controlled, and not only with regard to location, but also time of year.

The editors of National Wildlands News consider public shooting of wildlife in the refuges as inconsistent with the purpose of the refuges. Such misuse of the areas should be terminated as rapidly as possible, and we recommend as a first step that existing legislation which permits up to 40 percent of the area of a refuge to be open to public shooting, at the discretion of the Secretary of the Interior, be amended to reduce the area percentage to the former figure of 25 percent. The legislation is the Migratory Bird Hunting Stamp Act. In 1958 the act was amended to raise the so-called duck stamp from $2 to $3. At that time, the act provided that up to 25 percent of a refuge could be opened to public shooting, but it was further amended to permit refuges to be opened up to 40 percent of their areas.

Mr. DINGELL. Are there any other witnesses who desire to be heard on this or any other legislation before the committee at the present time?

If not, the committee will recess subject to the call of the Chair and the record will remain open for anyone interested who desires to furnish anything additional for the record.

(Whereupon the committee recessed subject to the call of the Chair.)

75071—62——6

one great trading community which includes not only Western Europe and North Africa, but also Japan, Australia, Latin America and Africa—or do we go our separate ways, fragmenting the non-Communist world."

If we work out a trading relationship tying the free world together, then this relationship will be based primarily upon the dollar and secondarily on the pound as the reserve currencies of the world. If this system should break down, all the free world would feel the consequences, quite possibly another depression. We appear to have learned how to prevent severe depression on a national scale. We have not yet developed a mechanism to prevent an international depression resulting from an international monetary panic where the dollar is involved. The proposed special resources for the International Monetary Fund will certainly help, and may be sufficient to solve the problem. I believe that the Banking and Currency Committee should support these proposals and at the same time observe the system closely for any further improvements that could be made.

Respectfully submitted.

WILLIAM S. MOORHEAD.

The SPEAKER. The question is on the motion of the gentleman from Kentucky [Mr. SPENCE] that the House suspend the rules and pass the bill H.R. 10162.

The question was taken; and the Speaker announced that in his opinion two-thirds had voted in favor thereof.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 256, nays 94, not voting 86, as follows:

[Roll No. 54]

YEAS—256

Abbitt	Curtis, Mass.	Hagen, Calif.
Addabbo	Curtis, Mo.	Halleck
Albert	Daddario	Halpern
Anfuso	Dague	Hansen
Arends	Daniels	Harding
Ashley	Davis, John W.	Hardy
Aspinall	Delaney	Harris
Auchincloss	Dent	Harrison, Va.
Ayres	Denton	Harvey, Mich.
Bailey	Derounian	Hays
Baldwin	Dingell	Healey
Barrett	Dominick	Hechler
Bass, Tenn.	Donohue	Holifield
Bates	Dooley	Holland
Becker	Downing	Horan
Beckworth	Doyle	Hosmer
Belcher	Dulski	Inouye
Bennett, Fla.	Dwyer	Jarman
Betts	Edmondson	Jennings
Blatnik	Ellsworth	Joelson
Bolling	Fallon	Johnson, Calif.
Bolton	Farbstein	Johnson, Wis.
Brademas	Feighan	Judd
Breeding	Fenton	Karsten
Brewster	Finnegan	Karth
Brooks	Flood	Kastenmeier
Broomfield	Flynt	Kearns
Broyhill	Ford	Kee
Burke, Ky.	Frazier	Keith
Burke, Mass.	Frelinghuysen	Kelly
Burleson	Friedel	Kilburn
Byrnes, Wis.	Fulton	Kilgore
Cannon	Gallagher	King, Calif.
Carey	Garmatz	King, N.Y.
Celler	Gary	King, Utah
Chamberlain	Giaimo	Kirwan
Chelf	Gilbert	Knox
Chenoweth	Gonzalez	Kunkel
Cohelan	Goodling	Laird
Conte	Gray	Landrum
Cook	Green, Pa.	Lane
Corman	Grifin	Lankford
Cramer	Griffiths	Lesinski
Curtin	Gubser	Libonati
Lindsay	Olsen	Sheppard
Loser	Ostertag	Shipley
McFall	Pertins	Shriver
MacGregor	Peterson	Sibal
Mack	Pfost	Sisk
Madden	Philbin	Slack
Magnuson	Pike	Smith, Iowa
Mahon	Pillion	Smith, Va.
Mailliard	Pirnie	Spence
Marshall	Poage	Springer
Martin, Mass.	Poff	Stafford
Martin, Nebr.	Powell	Staggers
Meader	Price	Steed
Merrow	Pucinski	Stephens
Miller, Calif.	Purcell	Stratton
Miller, George P.	Quie	Stubblefield
Milliken	Randall	Sullivan
Mills	Reuss	Teague, Calif.
Moeller	Rhodes, Ariz.	Teague, Tex.
Monagan	Rhodes, Pa.	Thomas
Montoya	Riehlman	Thompson, N.J.
Moorhead, Pa.	Rivers, Alaska	Thompson, Tex.
Morgan	Roberts, Tex.	Thompson, Wis.
Morris	Robison	Toll
Morse	Rodino	Trimble
Moss	Rooney	Tuck
Moulder	Rosenthal	Tupper
Multer	Rostenkowski	Udall, Morris K.
Murphy	Roush	Ullman
Murray	Rutherford	Van Zandt
Natcher	Ryan, Mich.	Vinson
Nedzi	Ryan, N.Y.	Wallhauser
Nelsen	St. Germain	Walter
Nix	Santangelo	Watts
Norblad	Saund	Weaver
Norrell	Saylor	Weis
Nygaard	Schneebeli	Westland
O'Brien, Ill.	Schweiker	Widnall
O'Hara, Ill.	Schwengel	Willis
O'Hara, Mich.	Scranton	Wright
	Seely-Brown	Young
	Shelley	Zablocki

NAYS—94

Abernethy	Findley	McVey
Adair	Flynt	Meaan
Alexander	Forrester	Matthews
Alger	Fountain	Michel
Andersen, Minn.	Garland	Miller, N.Y.
Anderson,	Gathings	Minshall
Ashbrook	Grosa	Moore
Ashmore	Hagan, Ga.	O'Konski
Baker	Haley	Pelly
Bening	Hall	Ray
Battin	Harrison, Wyo.	Reifel
Beermann	Hersha	Rogers, Fla.
Bell	Hemphill	Rogers, Tex.
Bennett, Mich.	Henderson	Roudebush
Berry	Herlong	Rousselot
Bow	Hiestand	St. George
Bray	Horan	Schenck
Brown	Hoffman, Ill.	Scherer
Bruce	Huddleston	Short
Chiperfield	Ichord, Mo.	Siler
Church	Jensen	Smith, Calif.
Collier	Jonas	Taber
Colmer	Kornegay	Taylor
Cunningham	Kyl	Tuliefson
Davis, James C.	Langen	Utt
Derwinski	Latta	Van Pelt
Devine	Lennon	Wharton
Dole	Lipscomb	Whitten
Dorn	McCulloch	Williams
Durno	McDonough	Wilson, Calif.
Everett	McMillan	Winstead
	McSween	Younger

NOT VOTING—86

Addonizio	Fascell	O'Brien, N.Y.
Alford	Flood	O'Neill
Anderson, Ill.	Fogarty	Osmers
Andrews	Oavin	Passman
Avery	Glenn	Patman
Barry	Goodell	Pilcher
Bass, N.H.	Granahan	Rains
Blitch	Grant	Reece
Boggs	Green, Oreg.	Rivers, S.C.
Boland	Harvey, Ind.	Roberts, Ala.
Bonner	Hebert	Rogers, Colo.
Boykin	Hoffman, Mich.	Roosevelt
Bromwell	Hull	Schadeberg
Buckley	Johansen	Scott
Byrne, Pa.	Johnson, Md.	Selden
Cahill	Jones, Ala.	Sikes
Casey	Jones, Mo.	Smith, Miss
Cederberg	Keogh	Thompson, La.
Clancy	Kitchin	Thornberry
Clark	Kluczynski	Vanik
Coad	Kowalski	Wagonner
Cooley	McDowell	Whalley
Corbett	McIntire	Whitener
Davis, Tenn.	Macdonald	Wickersham
Dawson	Mathias	Wilson, Ind.
Digga	May	Yates
Dowdy	Moorehead, Ohio	Zelenko
Elliott	Morrison	
Evins		

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Osmers.
Mr. Morrison with Mr. Schadeberg.
Mr. Elliott with Mr. Whalley.
Mr. Evins with Mr. Glenn.
Mr. Macdonald with Mr. Hoffman of Michigan.
Mr. Sikes with Mr. Goodell.
Mr. Addonizio with Mr. Barry.
Mr. O'Neill with Mr. Anderson of Illinois.
Mr. Boland with Mr. Clancy.
Mr. Alford with Mr. Gavin.
Mr. Cooley with Mrs. Reece.
Mr. Dowdy with Mr. Wilson of Indiana.
Mr. Fogarty with Mr. Johansen.
Mr. Roosevelt with Mr. Mathias.
Mr. Rogers of Colorado with Mr. Corbett.
Mr. Wickersham with Mr. Moorehead of Ohio.
Mr. Thompson of Louisiana with Mr. Harvey of Indiana.
Mr. Hull with Mr. McIntire.
Mr. Boggs with Mr. Bass of New Hampshire.
Mr. Yates with Mr. Cahill.
Mr. Rains with Mrs. May.
Mr. Roberts of Alabama with Mr. Cederberg.
Mr. Kluczynski with Mr. Bromwell.

Mrs. ST. GEORGE changed her vote from "yea" to "nay."

Mr. GUBSER changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that all Members who so desire may insert their remarks on this bill before the rollcall, and include therein extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

INCIDENTAL USE OF FISH AND WILDLIFE AREAS

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1171) to increase the public benefits from the national fish and wildlife conservation area through their incidental or secondary use for public recreation, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of mounting public demands for recreational opportunities on national wildlife refuges, game ranges, national fish hatcheries, and other conservation areas administered by the Secretary of the Interior for fish and wildlife purposes; and in recognition also of the resulting imperative need, if such recreational opportunities are provided, to assure that any present or future recreational use will be compatible with, and will not prevent accomplishment of, the primary purposes for which the said conservation areas were acquired or established, the Secretary of the Interior is authorized, as an appropriate incidental or secondary use, to administer such areas or parts thereof for public recreation when in

his judgment public recreation can be an appropriate incidental or secondary use: *Provided*, That such public recreation use shall be permitted only to the extent that is practicable and not inconsistent with other previously authorized Federal operations or with the primary objectives for which each particular area is established: *Provided further*, That in order to insure accomplishment of such primary objectives, the Secretary, after consideration of all authorized uses, purposes, and other pertinent factors relating to individual areas, shall curtail public recreation use generally or certain types of public recreation use within individual areas or in portions thereof whenever he considers such action to be necessary: *And provided further*, That none of the aforesaid refuges, hatcheries, and conservation areas shall be used during any fiscal year for those forms of recreation that are not directly related to the primary purposes and functions of the individual areas until the Secretary shall have determined—

(a) that such recreational use will not interfere with the primary purposes for which the areas were established, and

(b) that funds are available for the development, operation, and maintenance of these permitted forms of recreation. This section shall not be construed to repeal or amend previous enactments relating to particular areas

SEC. 2. In order to avoid adverse effects upon the wildlife populations of the said areas that might otherwise result from public recreation or initiation to such areas, the Secretary is authorized to acquire limited areas of land for recreational development adjacent to the said conservation areas: *Provided*, That the acquisition of any land or interest therein pursuant to this section shall be accomplished only with such funds as may be appropriated therefor by the Congress or donated for such purposes, but such property shall not be acquired with funds obtained from the sale of Federal migratory bird hunting stamps.

SEC. 3. In furtherance of the purposes of this Act, the Secretary is authorized to cooperate with public and private agencies, organizations, and individuals, and he may accept and use, without further authorization, donations of funds and real and personal property. Such acceptance may be accomplished under the terms and conditions of restrictive covenants imposed by donors when such covenants are deemed by the Secretary to be compatible with the purposes of the wildlife refuges, game ranges, fish hatcheries, and other fish and wildlife conservation areas.

SEC. 4. The Secretary may establish reasonable charges, fees, and permits for public use of national wildlife refuges, game ranges, national fish hatcheries, and other conservation areas administered by the Department of the Interior for fish and wildlife purposes of this Act. A violation of such regulations shall be a petty offense (18 U.S.C. 1) with maximum penalties of imprisonment for not more than six months, or a fine of not more than $500, or both.

SEC. 5. There is authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act, including the construction and maintenance of public recreational facilities.

The SPEAKER. Is a second demanded?

Mr. TOLLEFSON. Mr. Speaker, I demand a second.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. TOLLEFSON. I am.

The SPEAKER. The gentleman qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, this bill was reported unanimously by the Committee on Merchant Marine and Fisheries and reported to that committee unanimously by the Subcommittee on Fish and Wildlife.

The function of this bill is to recognize that the wildlife refuges, the installations and facilities of the Fish and Wildlife Service are being utilized to near the brink of destruction through overuse. The number of visitors at the refuges and game ranges has increased from 3,500,000 in 1951 to approximately 11 million in the year 1960.

In addition to this, there are around a million persons a year who use the fish hatcheries for picnicking, for camping, and for similar outdoor recreation. With the anticipated increase in outdoor recreation, the subcommittee and full committee expect that this use will increase very substantially in the foreseeable future.

It was significant to note that there was no witness in opposition to this measure.

Briefly, Mr. Speaker, the measure provides, in recognizing the mounting public demands and increased outdoor recreation in this country, that the Congress for the first time finds that public recreation is one of the functions that can usefully and appropriately be provided in the fish and wildlife refuges throughout of the Federal Government.

Furthermore, the bill provides that recreation shall be recognized only as an appropriate incidental and secondary use of these facilities, and that these facilities shall be so operated as to protect their main use for wildlife, for the benefit of which all refuges and other fish and wildlife areas and installations have been established. There is a safeguard which requires that where additional lands are required that these lands shall be acquired not through duck stamp funds, which are secured from the sale of migratory bird stamps to hunters, fishermen, and the like, but rather from appropriated funds. The Secretary must make certain findings before he throws these areas open to public use; the bill requires him to find, for example, that there is sufficient money available to administer and protect these areas, and he must find that the utilization for recreational use will not be harmful to the basic purpose of the refuges.

There are certain other things that the House should bear in mind in the consideration of these measures, and that is during large parts of the year migratory waterfowl refuges are nearly idle. For example, in the southern part of the United States the large part of the migratory waterfowl leave during the summer months and move to the north to breeding grounds. There are certain refuges which are established, the sole purpose of which is to provide resting places as the migratory waterfowl pass on from north to south and south to north.

During the balance of the year there are certain types of recreation that can be made available to our people on these refuges, including fishing, swimming, camping, boating, and other useful and wholesome recreation.

I want to pay tribute to the chairman of the full committee, the subcommittee, the ranking minority members of the full committee and subcommittee, and the members of the full committee and the subcommittee who worked so hard to make this bill a sound and a comprehensive piece of worthwhile wildlife legislation.

I would also like to pay tribute to the distinguished gentleman from Iowa [Mr. JENSEN], whose good work on behalf of this bill is well known to the membership of the committee and whose efforts have brought it to fruition.

I should like also to pay tribute to the gentleman from Nebraska [Mr. CUNNINGHAM], who also worked on behalf of this bill and sponsored an identical piece of legislation.

Mr. SAYLOR. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. I would like to commend the committee for bringing this bill to our attention and to the floor for action.

Just so that the record is clear, I want to make sure that the sentence which appears on page 3 of the report is not misconstrued. If you will look at page 3 of the report, the second paragraph, you will find this sentence:

> However, such use will entail the addition of facilities such as parking areas, acquisition roads, sanitary facilities, dock and launching ramps, and campgrounds, to encourage the widest possible use of the area.

My question is, In light of this sentence, Is it intended that the secondary use will in any way interfere with the primary use of these areas and the purpose for which they were originally established?

Mr. DINGELL. The gentleman is absolutely correct as to that point. As a matter of fact, the whole redraft of the bill, which was done by the subcommittee with the consent and approval of the author, is that recreation is purely a secondary use and that it shall not be permitted to run away, as it has in some instances, for example, in some of the national parks; in addition to this, that the administration shall be such as to protect the program for waterfowl, migratory game, and so forth, which utilize it, and preserve the refuge for its primary purpose.

Mr. SAYLOR. Is there any remedy provided at this time in case there is a misuse of an area by the public so that it could be returned to its original use?

Mr. DINGELL. There is no such language in the bill. However, I would call the attention of my good friend to line 5, page 3, of the bill, where it says:

> *Provided*, That such public recreation use shall be permitted only to the extent that is practicable and not inconsistent with other previously authorized Federal operations or with the primary objectives for which each particular area is established: *Provided further*, That in order to insure accomplishment of such primary objectives, the Secretary, after consideration of all au-

thorized uses, purposes, and other pertinent factors relating to individual areas, shall curtail public recreation use generally or certain types of public recreation use within individual areas or in portions thereof whenever he considers such action to be necessary.

Mr. SAYLOR. In other words, if the Secretary did open one of these areas to a secondary use and found that there had been abuse, the Secretary has in this bill the authority to restrict such uses?

Mr. DINGELL. That is correct. Further, there is this very strong mandate. I will say to the gentleman. The Secretary must determine before he can open these refuges in any fiscal year, first, that such recreational use will not interfere with the primary purposes for which the areas were established; and second, that funds are available for the development, operation, and maintenance of these permitted forms of recreation. This section shall not be construed to repeal or amend previous enactments relating to particular areas.

Mr. ANDERSEN of Minnesota. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Minnesota.

Mr. ANDERSEN of Minnesota. I would like to compliment the committee for bringing out this bill. I furthermore would like to commend the gentleman from Iowa [Mr. JENSEN] and the gentleman from Nebraka [Mr. CUNNINGHAM] for providing us an opportunity to discuss a measure of this nature here today.

I am vitally interested in this legislation because we in Minnesota are blessed, as you well know, with many lakes, and therefore fish and wildlife and recreation are important to that area. The increase in the numbers of visitors to these refuges and fish hatcheries is plainly evident in my State and I have no doubt that the use of these facilities will increase still more in the foreseeable future.

In my own congressional district in southwest Minnesota, there is now being planned a great wildlife refuge and recreational area near Ortonville, Minn., known as the Big Stone Lake-Whetstone River project. When completed this area will provide recreation for additional thousands of people.

Now is it not a fact that the Fish and Wildlife Service today does not have any authority whatsoever with respect to restrooms and sanitation facilities in refuges of this nature?

Mr. DINGELL. There is no such clear statutory provision at this time.

Mr. ANDERSEN of Minnesota. Of course, if we do not provide for such facilities, we are apt to destroy the entire purpose of the refuge by having no control whatsoever of sanitation in that area; is that correct?

Mr. DINGELL. The gentleman is correct. In the same way, the areas are in grave danger of overuse at this time, and this bill sponsored by the gentleman from Iowa will be of significant help in providing the administration that is necessary.

Mr. ANDERSEN of Minnesota. As the gentleman has stated, we might as well utilize the secondary benefits in areas of this nature.

Mr. DINGELL. That is correct. And, over the years we hope to have, in order to preserve the migratory wildfowl, some 4.5 million acres purchased by proceeds of duck stamp sales.

One thing I want to stress is that the recreation contemplated is not wild motorboating, water skiing, and so forth, since these often, almost invariably are destructive of refuge purposes.

Mr. Speaker, I reserve the balance of my time.

Mr. TOLLEFSON. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa [Mr. JENSEN].

Mr. JENSEN. Mr. Speaker, the gentleman from Michigan, Mr. DINGELL, has explained this bill quite in detail. I want to thank and compliment the gentleman for the untiring, effective, hard work that he did in perfecting this bill, with the full cooperation of the members of the Committee on Merchant Marine and Fisheries for their unanimous support and for bringing this bill to the floor of the House today.

Mr. Speaker, this bill provides in short that the Fish and Wildlife Service may expend appropriated funds and donated funds for recreational facilities in wildlife refuges, which up to this time has not been their privilege. We have in this Nation hundreds of thousands of acres in wildlife refuges. Because of the great demand, nationwide, for additional recreational areas, this bill, if made law, will make it possible for people in many areas of America to enjoy the recreational facilities that will be provided under the provisions of this bill. It will provide for those facilities and it will not in any way interfere with wildlife. It will provide sanitary facilities, swimming, boating, fishing, and skiing on the ponds and lakes within the wildlife refuges, to the end that it will save millions upon millions of dollars for the American taxpayers, millions of whom are urging greater recreational facilities in their respective areas.

Mr. Speaker, I am pleased to report that the Department of Interior is in full support of this bill. However, they have made certain recommendations, after Mr. CUNNINGHAM and I introduced the original bill, that the bill be amended in certain respects. Those recommendations have been incorporated in the bill now before the House.

The Izaak Walton League is in full support of this bill, and also the Sport Fisheries Institute of America. I have letters here substantiating that statement.

Mr. Speaker, I know that if this bill is made law it will provide recreational areas for people in many sections of America and especially for the children of America who need outdoor recreation. It may to some extent reduce juvenile delinquency, because, as the old saying goes, "Take your boy to the great outdoors fishing and hunting and you will never have to go hunting for your boy."

Mr. Speaker, so far as I know there is no opposition to this bill. We can only hope that it will be adopted by both Houses of Congress by unanimous vote.

Mr. TOLLEFSON. Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I should not like this opportunity to pass without expressing my deep appreciation to the chairman and members of the committee who reported out this bill, especially my dear friend and most able colleague, the gentleman from Michigan, who I know has worked extremely hard on this particular legislation.

There are many areas of the country that are not so fortunate as to have an oversupply of recreational facilities. Many States in the Midwest and in the old area of the dust bowl and others just do not have places to get away to and have a little relaxation.

This legislation will enable the Federal Government to take advantage of facilities they now have and provide some bare necessities so that the less fortunate people who cannot go to more expensive resorts, or to places at great distances away, may enjoy a little recreation and outdoor activity. I think it is a great step forward. I think it is going to be a great boon to what we often refer to as the "little people of America." So I am happy to have had a part in the introduction and passage of this legislation and again I wish to express my very deep appreciation of the committee's action and of their thorough consideration of this problem.

Mr. DINGELL. Mr. Speaker, I yield such time as he may require to the gentleman from West Virginia [Mr. BAILEY].

Mr. BAILEY. Mr. Speaker, I wish to commend the members of the committee that brought this legislation to the floor. It enables me to comply with the request of the Izaak Walton League, the Rod and Gun Club, and Sportsmen Unlimited in my State who have requested me to support this legislation. It is a pleasure to do so.

Mr. DINGELL. Mr. Speaker, I yield such time as he may require to the gentleman from California [Mr. GEORGE P. MILLER].

Mr. GEORGE P. MILLER. Mr. Speaker, I want to congratulate the gentleman from Michigan [Mr. DINGELL] for bringing this legislation to the floor. It was my privilege to serve with him on the Committee on Merchant Marine and Fisheries for many years and I know of his devotion to the subject of wildlife, its protection and its uses for the benefit of the people of the country and particularly the sportsmen and the little people.

Mr. Speaker, I am happy to support the legislation.

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentleman from California. Let me say that the Committee on Merchant Marine and Fisheries was honored to have the distinguished gentleman with us for a number of years before he went on to greater things. We are keenly aware of his interest in this subject.

Mr. Speaker, I yield such time as he may require to the gentleman from California [Mr. DOYLE].

Mr. DOYLE. Mr. Speaker, with my cordial compliments to the distinguished gentleman from Michigan [Mr. DINGELL] and all who were instrumental in bringing this very worthy provision, as specified under H.R. 1171, to the floor of the House this day under suspension of rules so that it could be promptly adopted by this great legislative body, I wish also to state that I recognize in its basic provisions a very logical and strength-giving use of the lands under the Department of Fish and Wildlife in the best interests of millions of the citizens of our beloved Nation for recreational activities and programs as well as the enjoyment of God's out of doors in a very much larger way and manner than has ever been possible before.

With the cooperation of the Department of Interior in this matter through the office of its able Secretary, there will be made available in these areas amassed by the Department of Fish and Wildlife opportunities for active recreation in such recreational participation as photography, sightseeing, picnicking, camping, boating, fishing, hunting.

Mr. Speaker, it should be significant that the American people love to be in the native habitat of wildlife in our mountain, lake, and stream areas for the number of visitor days of public use of wildlife refuges and game ranges has perceptibly increased from 3,500,000 citizens of America in the year 1951 to about 11 million in the year 1960; and about 1 million persons a year visit our fish hatcheries. Of course, the active recreational uses by the visitors to these areas will be restricted to the extent it is practical and not at all inconsistent with the primary objectives for which these fish and wildlife areas were originally set aside. There are about 140 of such areas out of the total of 289 wildlife refuges on which public recreational activities are now permitted and the logical and natural demand for further use of these areas and for additional areas is the natural result of the pleasures of our daily life.

The estimated cost for the administration of these recreational facilities annually, I am informed by the committee, will be less than a million dollars, and I am also very pleased to see that section 2 of this worthy bill specifies cooperation with private and public agencies and individuals engaged with furnishing such recreational programs.

Mr. Speaker, a few minutes ago I was asked by a fellow colleague of this great legislative body what experience, if any, my great interest in support of this bill stemmed from and I was pleased to relate that it does so from the fact that for 15 years at Long Beach, Calif., I had the great privilege of being chairman of the Public Recreation Commission—without pay. In this official capacity it was my pleasure to attend several State and National conferences on this subject of recreation. True, Mr. Speaker, a person is naturally strengthened and gets stronger in spirit, mind, and body by a constructive use of his or her leisure time. And, may I respectfully say that a family which plays together stays together more nearly than any other typical family. In like manner whatever a person does when he has nothing to do definitely contributes to his or her strength of character and contribution to our Nation's strength, structure, or stability—or lack of it. So, I am pleased to join in congratulations to the committee for bringing this bill to the floor at this time. I feel sure all of my colleagues will join in unanimous, or practically unanimous, support of this bill. I urge unanimous support.

Mr. DINGELL. Mr. Speaker, I yield such time as he may require to the gentleman from California [Mr. HAGEN].

Mr. HAGEN of California. Mr. Speaker, I, too, wish to commend the gentleman from Michigan [Mr. DINGELL] for bringing this bill to the floor and the gentleman from Iowa [Mr. JENSEN], who worked with him on this bill. It represents an expanded use of a great national resource to the detriment of no one and to the benefit of thousands and thousands of people.

Mr. TOLLEFSON. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GROSS].

Mr. GROSS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. GROSS. Mr. Speaker, I am sure that the Members of the House who voted so enthusiastically a few minutes ago to toss another $2 billion into the kitty for the International Monetary Fund will be interested to know that when this Government bought some 240 million French francs on March 1 of this year, the money did not come from the International Monetary Fund. The Federal Reserve put $50 million into the purchase of some 240 million francs. I am sure that everyone who so enthusiastically voted, as they did a little while ago, will agree that this action is not designed to help resolve the financial imbalance that this country now has with foreign countries. It was another $50 million contribution to the imbalance existing between the United States and foreign countries.

Mr. TOLLEFSON. Mr. Speaker, I yield such time as he may desire to the gentleman from Iowa [Mr. JENSEN].

Mr. JENSEN. Mr. Speaker, I am very happy that I hear no opposition to this bill. I must say that I appreciate the support of this bill by the gentleman from Washington [Mr. TOLLEFSON]. He has been very kind in taking care of the things that are necessary to be looked after when a bill comes to the floor, and he has been very kind in supporting the bill. I say that also in behalf of every member of the Committee on Merchant Marine and Fisheries. It is very wonderful to know that they did favor the bill, and I know why: Because it is a bill which will be good for the American people and for the economy of our country.

Mr. DINGELL. Mr. Speaker, I yield such time as he may desire to the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Colorado [Mr. ASPINALL].

Mr. ASPINALL. Mr. Speaker, I want my colleagues to know that I favor the bill, and particularly favor that part of the bill which is in section 4, which gives the Secretary of the Interior the authority to establish "reasonable charges, fees, and permits." However, there is this one question I should like to direct to the attention of the gentleman from Michigan [Mr. DINGELL]: that is, whether or not he considers the language in the first part of the bill, which refers to the jurisdiction of the Secretary of the Interior over other "conservation areas administered by the Secretary of the Interior for fish and wildlife purposes," would include any of the jurisdiction of the National Park Service.

Mr. DINGELL. The answer to that question is no. The committee was referring exclusively to the areas administered by the Fish and Wildlife Service. In line 20 on page 2 of the bill appears similar language:

> And other conservation areas administered by the Secretary of the Interior for fish and wildlife purposes.

This is the land we are seeking to legislate for here.

Mr. ASPINALL. I am glad to have that as part of the legislative history of this measure.

Mr. DINGELL. Mr. Speaker, I yield such time as he may desire to the gentleman from Florida [Mr. HALEY].

Mr. HALEY. Mr. Speaker, I notice in the report on the bill the Department estimates the cost at somewhat less than $5 million, and the annual maintenance and administrative expense at $1 million. I wonder if the gentleman can enlighten us a little bit about the $5 million. If it is thought that the cost of construction may not go over $5 million, why is not a limitation put in the bill so that this will not be an open end bill?

Mr. DINGELL. I may state for the committee it is not the intention of the committee to establish a large new program of expenditure, but the committee was never able to get a concrete estimate of the overall cost. However, the committee was able to get this estimate, which we regard as being in a sense at least an initial limitation on the amount which will be spent. It is my experience that the Fish and Wildlife Service has not been given attention to the degree it should. I am quite sure that over the years this will be brought very carefully to the attention of the appropriate committees of Congress.

Mr. HALEY. I assure the gentleman that I hope the Committee on Appropriations will take into consideration the remarks just made by the gentleman from Michigan.

Mr. DINGELL. The distinguished gentleman from Iowa, the author of the bill, is a member of the Committee on Appropriations. He is very careful with public funds, and I am sure he will watch this matter very carefully to be certain that it is handled economically.

Mr. HALEY. The gentleman from Iowa [Mr. JENSEN] has just assured me that he will.

The SPEAKER pro tempore. The question is, Will the House suspend the rules and pass the bill, as amended?

The question was taken, and (two-thirds having voted in favor thereof)

the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

The title was amended so as to read: "A bill to assure continued fish and wildlife benefits from the national fish and wildlife conservation areas by authorizing their appropriate incidental or secondary use for public recreation to the extent that such use is compatible with the primary purposes of such areas, and for other purposes."

GENERAL LEAVE TO EXTEND

Mr. JENSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

STATEMENT OF THE CASE ON CLAIMS APPEALED TO BOARD OF VETERANS APPEALS

Mr. TEAGUE of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 857) to amend section 4005 of title 38, United States Code, to provide that cases appealed to the Board of Veterans Appeals shall contain a brief statement of the facts of the case appealed, with a citation and application of the law, together with the recommendations of the office appealed from, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4005(e) of title 38, United States Code, is amended to read as follows:

"(e) (1) Where a claimant or his representative within the time specified for filing an application for review on appeal expresses in writing dissatisfaction with, or objection to, the decision of the agency of original jurisdiction on any issue, the activity concerned will prepare a statement of the case consisting of—

"(A) a summary of the evidence in the case pertaining to the issue or issues as to which there is dissatisfaction or objection;

"(B) a citation or discussion of the pertinent law, regulations, and where applicable the provisions of the schedule for rating disabilities; and

"(C) the decision on the issue or issues and a summary of the reasons therefor.

"(2) Copies of the statement of the case prescribed by paragraph (1) of this subsection will be furnished the claimant, and to his representative if there is one. The claimant will at this time be advised of his right to appeal and that, if he desires to file an application for review on appeal, he should set out in his application specific allegations of error of fact or law, relating such allegations where feasible to specific items in the statement of the case. The claimant will be afforded a period of thirty days from the date the statement of the case is mailed to him or the remainder of the period specified in subsection (a) of this section (or, in the case of simultaneously contested claims, the period specified in section 4007 of this title), whichever is the greater, to perfect his appeal. If the claimant fails to respond, but the expression of dissatisfaction which he filed contains specific allegations of error of fact or law the case will be forwarded to the Board for appropriate action on the record as it then exists; otherwise the case will be closed by the agency of original jurisdiction.

"(3) In any case where furnishing a statement of the case as required by this subsection would disclose matters that would be injurious to the physical or mental health of the claimant, the Administrator may modify the statement furnished claimant to eliminate such material. In such a case, if the claimant has designated a representative, the Administrator may, nevertheless, furnish a full statement of the case to the representative, unless he finds that the relationship between the claimant and the representative is such that the disclosure to the representative would be as harmful as if made to the claimant.

"(4) Any statement of fact which is contained in the statement of the case and to which no exception is taken by the claimant or his representative shall be prima facie evidence of the correctness of such statement of fact.

"(5) If an application for review on appeal is filed after a statement of the case has been presented to a claimant the activity concerned will review such application to determine if it is defective in specific allegations of errors of fact or law. If it finds the application to be defective the activity will advise the claimant or his representative of this fact and afford a reasonable time for the application to be amended to cure the defect. If the claimant does not take advantage of this opportunity the case will be referred to the Board for appropriate action which may include dismissal for insufficiency.

Sec. 2. The amendments made by this Act shall be effective January 1, 1963.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. TEAGUE of Texas. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. KORNEGAY], chairman of the subcommittee handling this bill.

Mr. KORNEGAY. Mr. Speaker, this bill, as reported, seeks to provide that cases appealed to the Board of Veterans Appeals shall contain a brief statement of the facts of the case appealed with a citation and application of the law, together with the recommendations of the office appealed from.

Prior to forwarding the appeal, the statement of the case would be submitted to the appellant or his agent and he would be allowed 30 days in which to perfect his appeal. If the claimant fails to respond but the explanation of dissatisfaction which he filed contains specific allegations of error of fact or law, it will be forwarded to the Board for review on the record as it then exists. Otherwise, the case will be closed by the agency of original jurisdiction. It is further provided that any statement of fact to which no exception is taken by the claimant shall be prima facie evidence of the correctness of that particular fact.

The Veterans' Administration filed, under date of May 25, 1961, a report on this proposal which is adverse. Subsequently, however, in testimony before a special subcommittee the General Counsel of the Veterans' Administration on March 1, 1962, while not advocating the legislation, made the following comments and suggestions on the bill which were adopted by the committee.

The General Counsel said:

Legislation pending before this committee, H.R. 857, introduced by Mr. TEAGUE of Texas on January 3, 1961, is an interesting and far-reaching bill directed toward this situation. While we did not recommend enactment of H.R. 857 in our report of May 25, 1961, for several reasons—particularly our uncertainty as to the overall purpose of the bill—we concede that, with certain modifications, it could accomplish a worthwhile improvement in due process.

H.R. 857 would require, in cases appealed to the Board of Veterans Appeals, that the agency of original jurisdiction prepare a statement of facts in the case, the law applicable, and a discussion of the application of the law to the facts, together with recommendations with respect to the disposition of the appeal. This statement would be furnished to the appellant for the purpose of obtaining his concurrence in the accuracy of the statement. In the event of nonconcurrence the appellant would be required to furnish exceptions to the statement. If concurrence were not obtained or exceptions filed within a specified time, the appeal would be dismissed. If legislation along those lines is to be favorably considered we suggest modifications in the bill which would provide the dissatisfied claimant with the information we now required by the bill, be applicable to a greater number of cases and eliminate the penalty of dismissal of the appeal for failure to concur or furnish exceptions.

Specifically, we suggest that it would be workable to require that in all cases in which the claimant expresses dissatisfaction with or objection to the decision of the agency of original jurisdiction on any issue, the agency prepare—

(a) A summary of the evidence in the case pertaining to the issue as to which there is dissatisfaction;

(b) A discussion of the pertinent law, regulations and provisions of the schedule for rating disabilities where applicable;

(c) The decision on the issue and a summary of the reasons therefor.

This "Statement of the Case" would be furnished the claimant and his representative if there is one. He would, as in the past, be advised of his right to appeal, and required to set out in his appeal allegations of error of fact or law and urged to relate such to specific items in the "Statement of the Case." If an appeal is filed which is defective in specification of errors of fact or law the agency of original jurisdiction would advise the claimant of the deficiencies and seek to have the appeal amended, but the final determination as to the adequacy of the appeal would be made by the Board of Veterans Appeals.

The bill, modified as suggested, would, in our opinion, have these effects:

(a) The complete explanation of the evidence and law would eliminate many appeals based on misunderstanding rather than belief of error.

(b) The claimant would be afforded an opportunity (1) to furnish new and material evidence in instances wherein the record was incomplete, and (2) to more effectively present his contentions on appeal.

(c) The implications of an adversary proceeding which are inherent in H.R. 857 as now drafted would be avoided.

(d) Lighten the burden of the Board of Veterans Appeals in that the issues for its consideration would be more specifically delineated.

There are 42,700 cases appealed annually. There are a number in addition to this in which dissatisfaction is expressed with the initial decision but in which for various

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TESTIMONY OF

TANYA K. METASKA

EXECUTIVE DIRECTOR

INSTITUTE FOR LEGISLATIVE ACTION

OF THE

NATIONAL RIFLE ASSOCIATION OF AMERICA

BEFORE THE

SUBCOMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

OF THE

HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE

REGARDING S.823 AND H.R.833

NATIONAL WILDLIFE REFUGE SYSTEM MANAGEMENT AND POLICY ACT

AUGUST 9, 1994

The National Rifle Association of America (NRA) welcomes the opportunity to comment on the future management of our National Wildlife Refuge System and H.R. 833 and companion bill S. 823. NRA's growing 3.6 million membership includes over 70 percent who hunt and many others who participate in other forms of wildlife-dependent recreation.

NRA's involvement is based on the interests of our hunter-conservationist membership. Specifically, our concern is rooted in the question of how will such legislation improve the management of our Refuge

System. Congressional involvement to legislatively correct what could have administratively been addressed is at issue. The intent of the legislation as described by its proponents is to provide the Fish and Wildlife Service (FWS) with an "Organic Act" similar to "Organic Acts" of its sister agencies which "define their purposes and provide direction for their programs." It is also argued by the proponents that this legislation will allow the FWS to "get beyond its nagging problem with incompatible uses, and improve refuge planning and inter-agency coordination" (National Audubon Society et al., August 9, 1994, S.823 and H.R. 833 Testimony). We believe that these issues can and should be addressed administratively. But all forces appear driven to a legislative solution; to get an "Organic Act." In doing such, it appears Congress will legislatively mandate that scarce monies be reallocated from FWS's trust responsibilities to fund extensive and redundant compatibility reviews and planning processes. In all likelihood, such reallocations will sacrifice the true conservation objectives of the Refuge System. The FWS readily admits that the cost associated with this legislation will demand sacrifices elsewhere in the FWS's budget. Will these sacrifices be at the expense of the resources the FWS is to conserve?

This legislation had the potential to be visionary in its scope. Rather, it is an administrative protocol that does little to help ameliorate the current condition facing the Refuge System. This condition has not resulted from the lack of "organic" legislation, rather it is the product of a fiscal and ideological rift. This legislation does nothing to remedy that. Ironically, it worsens this condition by its inherent lack of a funding mechanism and recognition of the historical and current contributions of wildlife-dependent recreation and environmental education to the Refuge

System. This "Organic Act" as it currently exists is little more than a band-aid solution to a chronic illness. To infer that sister agencies in the Federal government are being better administered because they have an "Organic Act" is disingenuous. This "Organic Act" could be innovative, precedent setting, and truly comprehensive if a funding mechanism and a greater recognition of wildlife-dependent recreation and environmental education as compatible uses of our Refuge System are included in the legislation.

Increased bureaucratic demands in the form of compatibility findings and planning processes are in of themselves good management tools and central to sound administration and management. But such tools, if applied without the forethought on how to financially utilize them, are fiscally irresponsible.

The NRA challenges all involved in the process, including ourselves, to revisit this legislation in the hope of providing for a truly visionary "Organic Act." Such legislation must incorporate how funding new bureaucratic mandates are to be accomplished, as well as clearing a $400 million dollar "Operations and Maintenance" deficit.

Additionally, this legislation, to be effective, should not discount the past and continuing contributions that wildlife-dependent recreation and environmental education have made to the Refuge System. It is through the course of these activities that most of the ideological public support is derived for the Refuge System and much of its financial support. As it currently exists, this legislation discounts these contributions by equating these uses with other secondary uses conducted on refuges. Historically and currently, much of the public's ideological and fiscal support that the Refuge System enjoys is from hunters. According to the FWS, of the refuge

lands outside of Alaska, 4.1 of the 15.1 million acres have been purchased with monies from the Migratory Bird Conservation Fund, of which Duck Stamp monies are a major contributor. Additionally, of the user fees charged to refuge visitors, hunters contribute nearly all of these monies.

Funds for the Refuge System will always be limited, with or without a funding mechanism in this legislation. It is therefore wasteful to require the expenditure of funds on compatibility findings for uses that historically have been shown to be a benefit, not a problem to the Refuge System. It is our belief that government programs must serve and respond to public needs and wants. If not, such programs risk the diminution of their public support and therefore their success and eventual existence. The Refuge System will not be exempt from this concern.

Initially, the NRA must help ensure that regulated, well-managed hunting opportunities and other forms of wildlife-dependent recreation and environmental education will continue to be offered and expanded on our refuge lands. Neither H.R. 833 or S. 823, as reported, satisfies NRA's immediate concern that such wildlife - dependent recreational opportunities have a future in the Refuge System. In fact, this legislation has raised serious concerns throughout the hunting conservation community that, if enacted, this legislation will do more harm than good.

Specifically, fish and wildlife-dependent recreation and environmental education should be exempted from an overly bureaucratic compatibility review process that is meant for a truly "secondary use" of a refuge. Fish and wildlife-dependent recreation, in the spirit and intent of Congress, was never to have been interpreted as a secondary use, comparable to such activities as grazing or mining.

The inclusion of fish and wildlife-dependent recreation as a typical secondary use of a refuge unnecessarily increases the administrative and fiscal burden on refuge managers. To overcome the burden requires a shift in the burden of proof so that current wildlife-dependent recreation and environmental education uses are continued unless they can be shown to be incompatible with other primary purposes of a refuge or the Refuge System. A compatibility determination for fish and wildlife-dependent recreation and environmental education requiring public review and comment should only occur if significant new information on these uses arises, the uses are new, or are to be terminated. Furthermore, the requirement for public review and comment on the compatibility of wildlife-dependent recreation uses should be waived if such review and comment are afforded by other means, i.e., Federal Register Notices for migratory bird seasons, refuge hunting openings, state public review and comment periods for other fishing and hunting seasons, etc.

The NRA is supportive of a tiered system for compatibility determinations for fish and wildlife-dependent recreation and environmental education: the determinations for fish and wildlife-dependent activities being much less exhaustive fiscally and administratively.

Further, the NRA is supportive of a 15 year planning process for the entire Refuge System. The existing Refuge 2003 document could serve as the first planning document for the Refuge System. Thereafter, within 2 years, each refuge would develop its own refuge specific planning document for at least the next 15 year period. Since many fish and wildlife management objectives require longer time periods to achieve, updates could be given in each 15 year refuge specific planning document. We would suggest that the compatibility determinations for fish and wildlife-dependent recreation also

reoccur at these 15 year intervals and sooner, if needed, as previously described.

In summary, we appreciate this opportunity to comment on this potentially landmark legislation and look forward to assisting in the process of developing a truly visionary, innovative, comprehensive "Organic Act" for the management of our National Wildlife Refuge System.

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DEPARTMENT of the INTERIOR
news release

Fish and Wildlife Service

For Release: July 27, 1994 Megan Durham 202-208-5650

HUNTING WILL CONTINUE ON NATIONAL WILDLIFE REFUGES; REFUGE FUNDING, COMPATIBILITY REVIEWS CONTINUING

No hunting programs on national wildlife refuges will be halted this fall, U.S. Fish and Wildlife Service Director Mollie Beattie said today.

"I wish to clarify this situation for the many sportsmen and women who have become concerned by inaccurate reports that the Fish and Wildlife Service is planning to end hunting on national wildlife refuges," Beattie said.

"The Service must continue with its review of refuge funding and compatibility issues, but will not be making any final decisions until late this year," Beattie said. "Therefore we will not be halting any refuge hunting programs this fall. Any changes I propose to make in refuge public uses as a result of our funding review will be submitted to the Congress for review according to the rules of the appropriations process. In addition, we will involve the States and the affected public before proceeding on any decisions that affect public use of refuges," Beattie said.

"I want to emphasize that the Fish and Wildlife Service has not changed its longstanding policy of supporting compatible outdoor recreation such as hunting and fishing within the National

(more)

Wildlife Refuge System," Beattie said. "Hunters and anglers have been in the vanguard of the wildlife conservation movement since its very beginning, and have willingly provided enormous financial support for wildlife management programs. There is no way we are going to turn our back on this vital constituency."

About half of the 499 refuges are open to hunting and fishing. For the 1993-94 season, the Fish and Wildlife Service opened eight new hunting programs and three new fishing programs on refuges.

Beattie said the public concerns are being generated by two separate reviews the Fish and Wildlife Service is conducting: one on the "compatibility" of recreational and economic activities permitted on national wildlife refuges, and the second on refuge funding.

The "compatibility" review is being conducted by refuge managers to comply with the requirements of the National Wildlife Refuge System Administration Act and the Refuge Recreation Act, as well as the terms of a compatibility lawsuit settlement agreement. The lawsuit, settled in October 1993, was brought against the Fish and Wildlife Service by several environmental groups who charged that contrary to the requirements of federal wildlife refuge law, the Service was permitting recreational and economic activities on refuges that were not "compatible" with the purposes for which those refuges were established. Under the Refuge System Administration Act and the Refuge Recreation Act, activities are not to be allowed within wildlife refuges unless they have first been found to be compatible with the purposes for which the refuge was established. Refuge managers are now making these required compatibility findings in writing. The refuge managers also must certify in writing under the Refuge Recreation Act that adequate funds are available to manage recreational programs that are not directly related to the primary purposes and functions for which a refuge was established.

"The fact is that the Service has made compatibility and funding determinations about recreational programs on refuges for years," Beattie said. " The difference now is that we are making sure we have all of these determinations in writing. I also want to stress that the compatibility review applies to all economic and recreation activities on refuges, not just hunting and fishing. We do not expect this review to turn up more than a small handful of wildlife-dependent recreation programs that are incompatible."

Beattie said the Service is conducting a review of refuge funding unrelated to the requirements of the Refuge Recreation Act because the 91-million-acre National Wildlife Refuge System is experiencing strains brought about by the growing number of new refuges and environmental mandates and other increases in the costs

of doing business. As a result, the Service has been reviewing activities on refuges to ensure the limited funds and staff are being used to address the highest priority fish and wildlife conservation needs.

Beattie said she has instructed Service regional directors not to staff 30 recently established national wildlife refuges and to leave some staff positions at existing refuges and central offices vacant until further notice, in order to focus resources on high priority activities at existing refuges.

"In the past, we have often taken money from established refuges to meet the costs of opening new refuges. This practice simply robs Peter to pay Paul," said Beattie.

Beattie said the Service will not proceed with any other major decisions on refuge funding adjustments until after the compatibility and Recreation Act funding determinations are completed under the lawsuit settlement agreement.

Beattie said the Fish and Wildlife Service will continue to acquire land as authorized by the Congress and the Cabinet-level Migratory Bird Conservation Commission.

"Often the opportunity to acquire important wildlife habitat comes along only once, and you must take advantage of those opportunities when they occur," Beattie said. "Therefore we do not believe it would be wise to halt our land acquisition program, and we will continue to acquire lands for those refuges authorized by the Congress and the migratory bird refuges approved by the Migratory Bird Conservation Commission."

The National Wildlife Refuge System presently includes 499 national wildlife refuges, 51 coordination areas, and many waterfowl production areas that together encompass some 91 million acres throughout the United States, its commonwealths, and territories. The Refuge System has grown by more than 3.6 million acres and 76 new refuges in the last decade. While operational funding has nearly doubled during this period, from $64.6 million in FY 1984 to $112.4 million in FY 1994, purchasing power per refuge has been eroded by inflation, start-up costs for new refuges, and other factors, despite efforts made by the Service to save funds through reduced travel, deferral of equipment replacement, and other actions. Although some refuges generate entrance and user fees, in fact these revenues equal less than 1 percent of the annual budget of the refuge system. Also, these fee programs are often costly and inefficient to administer. By law, only 30 percent of entrance fees collected are returned to the Fish and Wildlife Service to offset administrative costs.

-DOI-

INT. REQ. 405535
PRESS RELEASE ONLY

September 9, 1994

The Honorable Gerry Studds
Chairman
Committee on Merchant Marine
and Fisheries
1334 Longworth House Office Building
U.S. House of Representatives
Washington, DC 20515-6230

Dear Chairman Studds:

I am writing to request that this letter, and accompanying report, be included in the record of the August 9, 1994 hearing by your Subcommittee on Environment and Natural Resources concerning the National Wildlife Refuge System.

Defenders of Wildlife is a national conservation organization with over 85,000 members. For many years we have been among the leading groups advocating enactment of new legislation to improve the management of the Refuge System. As detailed in hearing testimony presented by the National Audubon Society, we are strong supporters of the H.R. 833 and S. 823, the National Wildlife Refuge System Administration and Policy Act. Our organization is especially supportive of the version of this legislation reported by the Senate Environment and Public Works Committee in June.

Before elaborating on two key reasons why Congress should enact this legislation, I wish to set the record straight on Defenders' position concerning hunting in the National Wildlife Refuge System. I am compelled to do so because of an inaccurate characterization of that position made during the hearing by Representative Young. You may recall that Representative Hutto asked a number of groups, including Defenders, about their position on hunting at a 1990 hearing on similar refuge legislation. In response to that inquiry, we stated the following:

> Defenders advocates policies which are in the best interests of all wildlife, by analyzing wildlife management programs to determine the appropriate response. Hunting is evaluated by this standard on a case-by-case basis.

With respect to hunting on refuges we stated: "Defenders does not oppose hunting unilaterally on all National Wildlife Refuges. We have opposed some individual hunts." Defenders position on this issue remains unchanged.

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As far as the substance of the legislation is concerned, we wish to make two points. First, it should be noted that S. 823 as reported by the Senate Environment and Public Works Committee would make the conservation of biological diversity a primary purpose of the Refuge System. Specifically, it would establish as purposes of the Refuge System:

-- "to provide a diverse national network of lands and waters designed to conserve and manage, in perpetuity, native fish, wildlife, and plants of the United States and their habitats;" and

-- "to conserve, manage, and where appropriate restore fish and wildlife populations, plant communities, and refuge habitats so as to provide in perpetuity for the diversity of native fish, wildlife, and plants and the ecological processes that sustain them."

Establishing these purposes for the Refuge System, the only network of public lands set aside primarily for wildlife, is long overdue and urgently needed. The Refuge System currently has no Congressional direction to include the conservation of biological diversity as a chief purpose. As Defenders pointed out in our June 9, 1993 testimony on this legislation before the Senate Environment and Public Works Committee's Subcommittee on Clean Water, Fisheries and Wildlife (Senate Hearing Record 103-172), a wide-ranging group of conservation biologists, resource managers and users are increasingly recognizing the need for a major commitment to preserving the natural diversity of our land.

Second, we wish to indicate our support for language in S. 823, as reported, concerning actions by other federal agencies. We believe this language will be helpful in addressing the problem of military overflights of National Wildlife Refuges. Earlier this year, Defenders released Unfriendly Skies, a report which documents widespread concern by Fish and Wildlife Service refuge managers about military overflights. The report, a condensed version of which is being submitted for the record, illustrates why existing mechanisms for resolving overflight conflicts have proven ineffective, and suggests a new national approach for reducing these conflicts. The language in S. 823 will help address the concerns raised in our report.

I appreciate your consideration of these views and the inclusion of this letter, and accompanying report, in the hearing record.

Sincerely,

Robert Dewey
Director
Habitat Conservation Division

Enclosure

Condensed Version of

UNFRIENDLY SKIES

The Threat of Military Overflights To National Wildlife Refuges

A Report by Defenders of Wildlife
January 1994

Robert Dewey
Refuge Program Coordinator

Dexter Mead
Refuge Program Research Intern

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EXECUTIVE SUMMARY

Research by Defenders of Wildlife and a new report by the U.S. Fish and Wildlife Service (FWS) show that military overflights continue to disturb wildlife on at least 35 national wildlife refuges. According to major studies by the General Accounting Office (1989) and the U.S. Fish and Wildlife Service (1990), military overflights are one of the most harmful activities affecting national wildlife refuges (NWRs). While these studies were completed more than three years ago, military overflights continue to pose a serious threat to wildlife and the National Wildlife Refuge System. Since military agencies are not under any clear legal obligation to reduce the impact of their activities on wildlife, FWS refuge managers have been forced to rely on the good will of local military commanders. The responsiveness of these commanders varies widely and their actions have often failed to resolve the concerns of FWS managers. Furthermore, overflight concerns may increase as military agencies continue to request the use of additional airspace from the Federal Aviation Administration (FAA). To resolve overflight conflicts, Congress should require the Department of Defense to avoid or, at minimum, mitigate the effects of overflights on wildlife unless precluded by national security considerations.

I. OVERVIEW OF THE OVERFLIGHT PROBLEM

At Cross Creeks National Wildlife Refuge in Tennessee, a military helicopter flies at less than 500 feet through a designated no-flight zone, distressing refuge visitors and causing several thousand ducks and geese to take flight. A Navy fighter passes 200 feet over California's Farallon NWR, raising 3,000 murres, 20,000 gulls, and 5,000 cormorants. At Georgia's Harris Neck NWR, a low-flying military transport flushes 50 federally endangered wood storks from their nests.

Recent Reports on the National Wildlife Refuge System

While events like these have been frequently documented on national wildlife refuges for more than 20 years, the issue of military overflights on refuges only began gaining national attention with the 1989 General Accounting Office (GAO) publication entitled *National Wildlife Refuges: Continuing Problems With Incompatible Uses Call for Bold Action*. This report found that 90 percent of 428 NWRs had secondary uses occurring on them and that 59 percent had at least one harmful use occurring. Military air exercises were one of the secondary uses most frequently cited as harmful. Refuge managers viewed military air exercises as harmful on 36 (65 percent) of the 55 refuges

where they occurred (see Appendix I), and, of the 36 managers, 35 recommended that such air exercises should be discontinued. According to the GAO report: "Conservationists and FWS refuge staff believe that dogfights and bombing exercises, weapons testing, and training, along with frequent sonic booms over refuges adversely affect waterfowl, shorebirds, and other wildlife."[1]

Following up on the 1989 GAO report, the 1990 FWS study *Secondary Uses Occurring on National Wildlife Refuges* found that military air exercises took place over 96 out of 478 refuges. Furthermore, managers on 70 (73 percent) of these refuges considered the military exercises to be harmful, making overflights the secondary use most often considered harmful (see Appendix I). The 1990 study also noted that FWS had the legal authority to control miliary overflights in only 2 of the 96 instances.

Efforts to Resolve Overflight Conflicts

Since 1990, the Fish and Wildlife Service has considered the overflight problems on a number of refuges to be resolved. Indeed, the FWS has remedied overflight concerns at several refuges where the agency had the clear legal authority to do so. At Minnesota's Rice Lake NWR, for example, a special use permit which had been issued previously to the Minnesota Air National Guard for "air drop and retrieval activities" was not renewed after 1990. The action appears to have effectively ended the military overflights of the refuge, which were conducted in conjunction with ground exercises. In another case, following significant legal and public pressure from environmental groups, Interior Secretary Bruce Babbitt in August 1993 formally withdrew a 44-year-old letter of permission allowing the Navy to bomb Washington State's Copalis NWR.[2]

In many instances, however, it appears that the FWS has not completely addressed overflight concerns. A review conducted by Defenders of Wildlife in late 1993 shows that harmful overflights are still occurring on at least some NWRs where the FWS considers the overflight problem resolved. At Utah's Fish Springs NWR, for example, a

[1] GAO, *National Wildlife Refuges: Continuing Problems With Incompatible Uses Call for Bold Action*, 1989, p. 30.

[2] Even though these actions represent a clear departure from the *laissez faire* attitude of past Administrations toward military uses of wildlife refuges, the Interior Department is still unwilling to press every overflight concern. Claiming it lacked legal authority, the Interior Department in 1993 failed to support efforts by the FWS manager of Arizona's Cabeza Prieta NWR to limit military training exercises. See "Effort to Protect U.S. Wildlife Refuges Turns Corner Today," *The Washington Post*, October 20, 1993.

FWS database[3] indicates that "[t]he problem was essentially corrected by 9/30/91;" yet another FWS document dated September 30, 1992 states that "[t]he refuge has documented 15 unnecessary and unsafe overflights of the refuge in the last 9 months."[4]

In other cases, FWS reevaluated the overflight concern and determined that the activity was not as harmful as first believed. On several occasions, however, this determination was apparently made because refuge managers were unable to conclusively prove negative impacts on wildlife, rather than because overflights were proven to be unharmful. At North Dakota's Arrowwood NWR complex, for example, low-level flights by bombers and supersonic flights by fighters were reported to disturb colonial nesting and migratory birds in 1990. However, when the refuge manager was requested to reevaluate the problem in 1991, he reported: "The overall affect of these exercises on concentrated wildlife populations, at present, is unknown."[5] Overflights at Arrowwood NWR—and at six other refuges in FWS Region 6[6]—were then deemed "[n]o problem on reevaluation."[7]

New Information on Overflights

Despite some limited success, most obviously in the rare cases in which the Fish and Wildlife Service has had clear legal authority to regulate military training exercises, a three-year effort by the federal wildlife agency has failed to resolve most overflight concerns. In many cases, refuge managers appear to have reached an impasse with the military in their efforts to resolve overflight concerns at scores of federal refuges. An August 1993 FWS report[8] shows that at least 30 refuges continue to be harmed by military overflights and another 11 refuges are affected solely by civilian overflights. In addition, Defenders of Wildlife research indicates continuing military overflight concerns

[3] FWS database on "Current Status of Harmful and Incompatible Uses," updated on 8/4/92.

[4] FWS "Notes for Utah Test and Training Range Meeting September 30, 1992, at Partoun School."

[5] Memorandum from Refuge Manager, Arrowwood Complex, to Assistant Regional Director, dated May 21, 1991.

[6] The following states are included in FWS Region 6: Montana, North Dakota, South Dakota, Wyoming, Nebraska, Utah, Colorado, and Kansas.

[7] FWS "Current Status of Threats and Conflicts" database.

[8] FWS, *Aircraft Overflight Issues on National Wildlife Refuges*, Division of Refuges, Branch of Wildlife Management, August 1993.

involving at least 5 additional refuges not included in the FWS report (see Figure 1). Additional refuges with continuing overflight concerns are:

- **Seney NWR (MI):** In the FWS' "General Report on Harmful or Non-Compatible Uses" (updated January 24, 1992) the refuge manager reported that "[l]ow level jet training flights [by the Air National Guard] disturb waterfowl and bald eagles. The disturbance effects include a designated wilderness area." A military training route traverses the refuge and flights are designated to go as low as 100 feet. Since the Air National Guard intends to continue to use the route through the refuge, the FWS is currently reviewing ways of reducing disturbance at certain times. For example, in a January 24, 1992 letter to the Air National Guard, the refuge manager requested the military to alter its operations because the period in which most overflights occur (April-October) is also the primary period that bald eagles use the area. As of December 1993, however, military overflights continued to be a problem at Seney.

- **Back Bay NWR (VA):** The FWS' "General Report on Harmful or Non-Compatible Uses" (updated January 21, 1992) indicated that harmful military and civilian overflights were still occurring at Back Bay NWR. According to this report, "[m]ilitary activity is by far the most common" and includes overflights by F-14s, A-6s, and helicopters. The helicopters "fly at extremely low levels, often below 300' [feet]—primarily along the beach and dunes. Migratory birds are disturbed by these flights. Snow geese often flush due to aerial overflights—especially those by helicopters." The report recommended prohibiting or limiting overflights, especially over the high concentrations of birds on the barrier spit. As of November 1993, military overflights continued to be a problem at Back Bay.

- **Banks Lake NWR (GA):** An Air Force bombing range sits next to Banks Lake refuge. While the FWS and the military had a memorandum of understanding (MOU) under which military agreed to fly at more than 2000 feet above the refuge, in 1990 the refuge manager wrote that "the overflights around Banks Lake are disturbing to resident as well as migratory wildlife species. . . . Our experience in the past on Okefenokee and Banks Lake Refuges has been that the military aircraft utilizing both areas pay little attention to agreements, MOU's, charts, etc. They will invariably 'do as they please' once they are in the air." The MOU with the military expired in 1990, and, as of November 1993, military overflights continued to be a problem at Banks Lake.

MILITARY AND CIVILIAN OVERFLIGHTS	
Harris Neck (GA)	Blackbeard Island (GA)
Wassaw (GA)	Sacramento Complex (CA)
Farallon (CA)	Togiak (AK)
Edwin B. Forsythe (NJ)	Havasu (AZ)
Kenai (AK)	Bitter Lake (NM)
Back Bay (VA)	
MILITARY OVERFLIGHTS	
Charles Russell (MT)	Wichita Mountains (OK)
Cibola (CA/AZ)	Imperial (CA/AZ)
Buenos Aires (AZ)	Sequoyah (OK)
Ash Meadows (NV)	San Andres (NM)
Sevilleta (NM)	Sea Island (ME)
Petit Manan (ME)	Cross Island (ME)
Kofa (AZ)	Lower Swannee (FL)
Cross Creeks (TN)	Cedar Keys (FL)
Hart Mountain (OR)	Cabeza Prieta (AZ)
Desert (NV)	Hagerman (TX)
Salton Sea (CA)	**Seney (MI)**
Malheur (OR)	**Banks Lake (GA)**

Fig. 1. National Wildlife Refuges with Aircraft Overflight Issues

(Source: Defenders of Wildlife research and *Aircraft Overflight Issues on National Wildlife Refuges*, 1993, U.S. Fish Wildlife Service).

Note: Refuges listed based on Defenders of Wildlife research are indicated in **bold**.

- **Malheur NWR (OR):** A military training route near the refuge is designated down to ground level. Military overflights affect sandhill cranes, bald eagles, ducks, geese, and American white pelicans. FWS pilots are also concerned about their own safety while conducting aerial wildlife research. As of December 1993, military overflights continued to be a problem at Malheur.

- **Salton Sea NWR (CA):** According to the 1990 FWS report *Secondary Uses Occurring on National Wildlife Refuges*, military air exercises including "helicopters, aircraft at 500 feet" cause "major wildlife disturbance." A memorandum from the regional director dated May 20, 1991, reported that "[d]irect physical disturbance is readily observable and is believed to create additional stress in migratory waterfowl populations that are suffering from habitat loss and other factors." Although the military has expressed substantial interest in resolving overflight concerns, helicopters still occasionally fly over the refuge causing major disturbances to waterfowl.

II. WILDLIFE AND WILDERNESS CONCERNS

According to refuge manager reports in *Aircraft Overflight Issues*, military overflights can pose a direct threat to the establishing purposes of individual refuges. These purposes include providing habitat for endangered species and maintaining preserves and breeding grounds for migratory birds, waterfowl, and other species. In most cases, overflights disturb nesting or migrating raptors, waterfowl, and shorebird populations. Overflights can also disturb mammals such as bighorn sheep, antelope, walrus, seals, and sea lions.

Endangered Species Threatened

Among the many federally endangered species at risk are wood storks at Georgia's Wassaw, Blackbeard Island, and Harris Neck NWRs, piping plovers at New Jersey's Forsythe NWR, interior least terns at New Mexico's Bitter Lake NWR, and bald eagles at several refuges including Oklahoma's Sequoyah NWR and Tennessee's Cross Creeks NWR. Federally threatened Steller sea lions are found at California's Farallon NWR and Alaska's Togiak NWR. The Buenos Aires NWR in Arizona was specifically established under the Endangered Species Act to preserve a mesquite grassland for the reintroduction of the federally endangered masked bobwhite quail, while Nevada's Ash Meadows NWR provides critical habitat for 33 federal or state listed endangered, threatened, and candidate species.

Migratory Birds and Waterfowl Threatened

As the *Aircraft Overflight Issues* report points out, a number of affected refuges are critically important to migrating birds. New Jersey's Forsythe NWR, for example, provides wintering habitat for approximately 10 percent of the Atlantic flyway's black duck population and approximately 15 percent of the Atlantic brant population. Up to

two million birds spend at least part of their winter at California's Sacramento NWR complex, including over half of the pintail ducks in North America. Sequoyah NWR in Oklahoma is the main Central Flyway wintering ground for mallard ducks, New Mexico's Bitter Lake NWR sees a large portion of the world's population of lesser sandhill cranes, and California's Farallon NWR is home to the largest continental seabird breeding colony south of Alaska.

Effects of Overflights on Wildlife

Relatively few studies have been conducted to assess the biological impacts of overflights on wildlife; however, many refuge managers note that the disruption of feeding, resting and nesting of birds can lead to their fatigue and stress and has the potential of either increasing mortality or leading to the abandonment of an area. At California's Farallon NWR and Alaska's Togiak NWR, overflights occurring during the nesting season result in the loss of hundreds of seabird eggs and chicks as startled adults knock them from their nests and leave them vulnerable to predators.[9] Refuge staff at Togiak NWR believe that "[o]ne major disturbance has the potential of severely impacting the reproductive success for the entire year."[10] At New Jersey's Forsythe NWR, the refuge manager stated that the disruption of feeding and occasional flushing of snow geese and Atlantic brant "impacts winter survival and overall condition of the population."[11] Similarly, in a January 10, 1989 letter to the Federal Aviation Administration, the supervisor of the FWS Raleigh, North Carolina, field office wrote: "The acoustical and visual impacts of low flying aircraft may result in a drain on the energy reserves of wildlife due to the reduction in feeding and resting time. . . . Breeding activities may be disrupted. . . . Wildlife may vacate a habitat entirely." In fact, at both Tennessee's Cross Creeks NWR and Oklahoma's Sequoyah NWR, refuge staff believe that overflights led bald eagles to abandon their nests, and at New Mexico's Bitter Lake NWR, the refuge manager reported: "The endangered least tern has exhibited a pattern of seemingly dissatisfaction with its former nesting territory. Low flying, or otherwise noisy aircraft may be partly to blame."[12]

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[9] Ibid.

[10] Ibid.

[11] Memorandum from Forsythe Refuge Manager to New Jersey field office, no date.

[12] Memorandum from Bitter Lake Refuge Manager to FWS Branch of Refuges and Wildlife, Albuquerque, dated March 1, 1991.

The effects of overflights on mammals are less clear. Their reactions to overflights tend to be less conspicuous than the reactions of large flocks of birds, and research on mammals has generated conflicting reports. For example, while some research has suggested that desert bighorn sheep can adapt to overflights in certain situations, other studies have shown a reduction in foraging efficiency.[13] At Sevilleta NWR in New Mexico, refuge staff believe that overflights raise stress levels in deer and antelope and that during periods of environmental stress or during the fawning season they can actually cause mortality.[14] Refuge staff at Alaska's Togiak NWR have observed hundreds of walrus, seals, and sea lions stampeding in reaction to overflights, and although there has been no documented evidence of mortality, individual animals can be trampled by such stampedes.[15]

Impact on Wilderness

Several refuges affected by military overflights also contain federally-designated wilderness. The Kenai NWR in Alaska, for example, has 1.35 million acres of designated wilderness within its boundaries. More than half of the 5,600-acre Blackbeard Island NWR in Georgia is designated wilderness, as well as 77 percent of Arizona's Kofa NWR. There are also wilderness areas at Forsythe NWR and at Oklahoma's Wichita Mountains NWR. Congress intended "wilderness" to be a highly protective designation. However, despite the 1964 Wilderness Act's definition of wilderness as an area "untrammeled by man . . . retaining its primeval character and influence, (with) outstanding opportunities for solitude," military overflights continue to disturb wildlife and visitors to these pristine areas.

III. EXISTING MECHANISMS FOR RESOLVING OVERFLIGHT CONFLICTS

The primary legal instrument addressing military overflights of public lands is an interagency agreement between the FWS, National Park Service (NPS), Bureau of Land

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[13] See Manci, K.M., et al. 1988. *Effects of Aircraft Noise and Sonic Booms on Domestic Animals and Wildlife: A Literature Synthesis*. USFWS. NERC-88/29, and Stockwell, C.A. and G.C. Bateman. 1991. "Conflicts in National Parks: A Case Study of Helicopters and Bighorn Sheep Time Budgets at the Grand Canyon." Biological Conservation 56: 317-328.

[14] *Aircraft Overflight Issues*.

[15] Ibid.

Management (BLM) and the Federal Aviation Administration (FAA).[16] The agreement was signed in January 1993 but is virtually identical to a previous agreement, which did little to help resolve overflight problems while it was in place from 1984 to 1989. While noting that the FAA has requested a 2,000 foot above ground level (AGL) minimum altitude for aircraft flying above refuges and other lands administered by the Department of the Interior, the agreement makes it clear that compliance is entirely voluntary.

> [The agencies] desire to act in cooperation to reduce the incidence of low-flying aircraft . . . over NPS, FWS, and BLM administered land by seeking *voluntary cooperation* [emphasis added] with the 2,000 feet [sic] AGL minimum altitude advisory.

As part of the agreement, the Federal Aviation Administration agreed to communicate National Park Service, Fish and Wildlife Service, and Bureau of Land Management concerns to pilots, to investigate instances of pilot deviations from the FAA-requested minimum altitude, and to take action to "discourage deviations." Regarding military overflights, the agreement merely requires the FAA "to assist the NPS, FWS, and BLM in communicating with the various agencies of the Department of Defense with regard to military aircraft operations over NPS, FWS, and BLM administered areas."

Since FWS lacks control over the airspace above its refuges and the Defense Department is under no legal obligation to mitigate overflight conflicts, refuge managers have relied primarily on personal negotiations with local military bases to solve their overflight problems. Of the 30 refuges reporting military overflight problems in the 1993 FWS report, at least 19 have been in contact with local military bases (Appendix III summarizes FWS efforts to resolve overflight concerns).

The good will of local military commanders is often insufficient, however. In some cases, the military has been unresponsive to FWS efforts to resolve problems. At Arizona's Buenos Aires NWR, for example, refuge staff have "made at least a dozen calls and . . . in frustration, we have discontinued the complaint process."[17] In other cases, the military has been generally cooperative. Some military bases have voluntarily

[16] "Interagency Agreement between National Park Service, Fish and Wildlife Service, Bureau of Land Management, and Federal Aviation Administration," signed January, 15 1993. Appendix II contains a copy of the agreement.

[17] *Aircraft Overflight Issues.*

agreed to restrict airspace over refuges by designating an acceptable minimum altitude of flights over refuges or designating no-fly zones. Unfortunately, these restrictions are evidently not always sufficient, or, more often, they are frequently violated.

Refuge managers have particular difficulties in dealing with violations. As the 1989 GAO *Refuge* report states: "Even when conditions are negotiated . . . the conditions are frequently violated because refuge managers have little capability to enforce them." Identification of violating aircraft and what base they are from can be difficult, and reports of violations often lead to only temporary respites. At Tennessee's Cross Creeks NWR, for example, a 1991 agreement restricts National Guard flights to above 2500 feet and totally prohibits flights from a local army base, yet "the problem persists. . . . Unless we can provide identifying aircraft numbers, they cannot enforce their own regulations. . . . The status of the situation is that there are 'no flight' and 'restricted area' regulations in effect that are basically worthless except as a documentation of 'good faith' on their part."[18]

Most of the refuges harmed by overflights are located near or below a regular military operations area or military training route. A military operations area (MOA) is a type of special use airspace (SUA), a broad category describing airspace where certain kinds of aircraft activities must be confined due of the nature of those activities or where limitations must be imposed on aircraft that are not part of the activities.[19] Only non-hazardous activities are conducted within MOAs, and they are not off-limits to civilian aircraft. Military training routes (MTRs) are not a type of special use airspace, but are non-restrictive FAA-designated aerial highways used by the military to conduct low-altitude navigation and tactical training at speeds greater than 250 knots.[20] MTRs are the military's most prevalent use of airspace and can be designated down to the surface, up to 30 miles wide, and hundreds of miles long.

FWS documents indicate that many refuge managers would like to see the military either change MOAs and MTRs so that they avoid refuges or agree to mandatory or stricter altitude restrictions (see Appendix III). While some refuge managers believe that a 2000-foot restriction would be sufficient, others see the need for a 5000-foot restriction. Seasonal restrictions may also be suitable for some refuges. Regardless of

[18] "Secondary Use Report Form: Military Activities," from Cross Creeks NWR, dated December 17, 1991.

[19] DOD/DOT, *Report on the Joint Review of Special Use Airspace*, Report to Congress, 1989.

[20] Ibid.

the method of mitigation used, refuge reports in *Aircraft Overflight Issues* make it clear that agreed flight levels are only worthwhile if adhered to vigorously. A number of refuge managers say that pilots must be better educated about the restrictions, and violations must be seriously pursued by military commanders.

Congress recently supplemented the national interagency agreement on airspace with language in the Senate report accompanying the 1993 Defense Authorization Bill. The Senate report instructs the Secretary of Defense and the Secretary of Interior to establish a procedure, including a mechanism for dispute resolution, "whereby DOD and DOI can achieve their mutual goals of training and stewardship."[21] Although such a mechanism may improve communication between the FWS and DOD, like the national interagency agreement, it does not impose a formal obligation on DOD to avoid or mitigate overflight conflicts.

IV. NEW RISKS FROM ADDITIONAL MILITARY AIRSPACE DESIGNATIONS

While existing military overflights pose a problem for many refuges, proposals to use even more of the nation's airspace for military training purposes are likely to increase disturbances to some refuges and create new threats to others. In Alaska, for example, a recent major flying exercises proposal will increase supersonic operations over 20,050 square miles and expand low-level training by 33,155 square miles, including areas covering Yukon Flats NWR and Innoko NWR and Wilderness area.[22] In another expansion, a recent transfer of two fighter squadrons to Moody Air Force Base in Georgia will increase sorties in its training routes by 40 percent.[23] Three of these training routes pass over Florida's Lower Swannee and Cedar Keys NWRs, where flights less than 500 feet above ground level are already frequent. Additional military training route expansions have also been proposed for the northeast, Colorado, Idaho, Nevada, New Mexico, and Utah.

Recent government studies and private groups have been critical of the FAA's

[21] S. Rep. No. 112, 103rd Cong., 1 Sess., p. 127, (1993).

[22] USAF, *Environmental Assessment: Major Flying Exercises in Alaska*, February 1993.

[23] Letter from FWS regarding Endangered Species Information for Moody Air Force Base Environmental Assessment, dated December 15, 1992.

allocation of airspace to the military.[24] Two complaints are common. First, while Federal agencies must address the environmental impacts of their decisions as stipulated by the National Environmental Policy Act (NEPA), the FAA has traditionally allowed the military to be responsible for its own environmental assessments and has not been involved in substantially reviewing or evaluating the assessments. In passing the responsibility for NEPA compliance to the Department of Defense, the FAA has left a large amount of room for military bias to enter the assessments. In particular, as stated in *Report on the Joint Review of Special Use Airspace*, a document prepared by the Department of Defense and the Department of Transportation, "[a] common concern . . . was that DOD did not adequately consider environmental issues when it sought to establish SUA [special use airspace], and it did not reassess those issues when new operations or equipment were introduced into existing SUA."[25] After this report, FAA and DOD signed a Memorandum of Understanding regarding NEPA compliance in connection with designation and modification of SUA. Unfortunately, this document apparently gave FAA no new substantive duties and even went so far as to state that FAA will accept DOD's determination that certain actions relating to the designation of SUA are categorically excluded from environmental review "without regard to whether the proposed action would be subject to a categorical exclusion under FAA regulations."

A second common complaint is that the FAA has not been effectively managing special use airspace to ensure that it is efficiently or appropriately used. According to a 1988 GAO report, *Airspace Use: FAA Needs to Improve Its Management of Special Use Airspace*, the FAA does not have adequate utilization data for special use airspace nor has it established guidelines to help eliminate special use airspace that is inefficiently or inappropriately used. The FAA has taken some steps to address these shortcomings by requiring data on military use of SUA and establishing standards to measure the effectiveness of SUA use. Despite these efforts, there is no sunset provision for SUA designations and, in as many as 25 cases, SUA designations will apparently continue despite the fact the military bases they were originally established in conjunction with are being closed.[26] Moreover, because military training routes (MTRs) are not a type of SUA, they are unaffected by FAAs closer examination of SUA designation.

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[24] The Rural Alliance for Military Accountability, an advocacy group based in Carson City, Nevada, is a leading advocate for reforming the procedures governing the designation of military airspace. See especially their 1989 report *The Military Invasion of America's Skies, A Report from Skyguard.*

[25] DOD/DOT *Report on the Joint Review of Special Use Airspace*, 1989, p. 13.

[26] Personal communication with Grace Bukowski, Rural Alliance for Military Accountability, January 1994.

V. FINDINGS AND RECOMMENDATIONS

There is a clear need for Congress to establish a formal and legally binding process for minimizing conflicts between military overflights and national wildlife refuges. Military overflights continue to harass wildlife and undermine conservation efforts on scores of refuges in the National Wildlife Refuge System. Refuge managers spend valuable time and limited resources dealing with local military bases. Despite its role as the federal agency primarily responsible for regulating air traffic over the nation's skies, the FAA has not exercised vigorous oversight on the military's use of airspace over national wildlife refuges. (In fact, civilian aircraft also pose a threat to a number of refuges.) Communications with the military, flight restriction agreements, and enforcement of agreements depend heavily upon the good will of local military commanders, which varies widely from base to base. Although FWS has attempted to enlist the help of the FAA in resolving specific issues identified in a recent FWS report,[27] FAA's willingness to press these concerns with the military is questionable. Moreover, conflicts between the military and refuge managers are likely to increase as the military expands its use of airspace in Alaska and elsewhere. Judging from past history, these expansion proposals many not receive careful or effective scrutiny by the FAA.

Legislation reported out of the U.S. House of Representatives Committee on Interior and Insular Affairs in 1992 and re-introduced by Congressman Bruce Vento (D-MN) in 1993 would help improve the accountability of agencies of the Department of Defense, particularly with respect to the designation of additional airspace for training purposes. H.R. 2080 would require DOD to solicit and consider the views of the Secretary of Interior or the Secretary of Agriculture before establishing airspace over non-military public lands. The Governors of affected states, affected Indian tribes and other members of the public must also be given the opportunity to comment on the proposed establishment of military flight zones. If the airspace is more than 5000 acres, the legislation would require that Congress be notified. Furthermore, the bill would give the Secretaries of Interior and Agriculture the right to monitor the effects of overflights and actively seek the assistance of the Secretary of Defense and others to resolve any concerns related to overflights.

A more direct and effective means of reducing current conflicts between overflights and national wildlife refuges would be to require DOD agencies to avoid or, at

[27] On November 10, 1993, FWS Deputy Director Richard Smith wrote to FAA Administrator David Hinson to state that a copy of *Aircraft Overflight Issues on National Wildlife Refuges* would soon be sent to FAA and to request that the agency develop "a resolution schedule for the problems."

minimum, mitigate the effects of their activities on federal refuges. Congress could give the Department of the Interior lead responsibility for identifying refuge conflicts and, in conjunction with DOD, identifying measures necessary to avoid or mitigate the impact of overflights on refuges. Most important, the Department of Defense should be required to implement those measures. Such a requirement would, for the first time, formally hold DOD accountable and assure that the agency makes a serious and diligent effort to reduce the impact of its activities on some of the nation's most important wildlife habitats. To avoid any potential conflicts between required mitigation measures and a compelling national security consideration, the President could be given broad discretion to grant a case-by-case basis exemption. The exemption would relieve any Defense Department agency from implementing a mitigation measure if the measure was found in direct conflict with national security objectives. In view of the military's poor record of adequately resolving overflight concerns, such a regulatory scheme appears to be a vitally needed means of reasonably reconciling two important national priorities: protecting federal wildlife refuges and assuring military preparedness. Moreover, Congress could easily establish such a regulatory mechanism as an amendment to legislation currently pending in Congress to improve the management of the National Wildlife Refuge System.[28] If enacted with such an amendment, this legislation would be the first time Congress has addressed the impacts of military overflights on public lands through national legislation.

Pending legislative initiatives give Congress important opportunities to craft an effective solution to the problem of military overflights of national wildlife refuges. Given Congress' heightened interest in affording greater protection to the National Wildlife Refuge System, the necessity of remedying one of the most substantial threats to that system should not be overlooked.

[28] In 1993, Senator Bob Graham (D-FL) and Rep. Sam Gibbons (D-FL) introduced S. 823 and H.R. 833, companion bills entitled the National Wildlife Refuge System Management and Policy Act.

BIBLIOGRAPHY

DOT/DOD. 1989. *Report on The Joint Review of Special Use Airspace.* Report to Congress. 29 pp.

GAO. 1988. *Airspace Use: FAA Needs to Improve Its Management of Special Use Airspace.* GAO/RCED-88-147. 43 pp.

GAO. 1989. *National Wildlife Refuges: Continuing Problems with Incompatible Uses Call for Bold Action.* GAO/RCED-89-196. 84 pp.

Rural Alliance for Military Accountability. 1989. *The Military Invasion of America's Skies, A Report from Skyguard.*

USFWS. 1990. *Secondary Uses Occurring on National Wildlife Refuges.* Compatibility Task Force Report, June 1990. 232 pp.

USFWS. 1993. *Aircraft Overflight Issues on National Wildlife Refuges.* Division of Refuges, August 1993.

August 4, 1994

The Honorable Gerry E. Studds, Chairman
Committee on Merchant Marine and Fisheries
Environment and Natural Resources Subcommittee
U.S. House of Representatives
545 Ford House Office Building
Washington, DC 20515

Dear Mr. Chairman:

I want to thank you for holding a timely hearing on August 9, 1994 with regard to "organic" legislation for the National Wildlife Refuge System. As one who cherishes the Wildlife Refuge System, serves on the Board of Directors of the National Wildlife Refuge Association, and has served as an official of the Department of Interior (DOI) to administer this system, I believe this legislation is a worthy endeavor.

As you may recall, I was Assistant Secretary for Fish, Wildlife and Parks at DOI from 1977 to 1981 under President Carter and, for awhile, I served as Acting Secretary. During my tenure at Interior we assembled a National Wildlife Refuge System Study Task Force. In 1979, we released our "Final Recommendations on the Management of the National Wildlife System." Among other things, we reaffirmed that "Refuges are established for the protection and enhancement of indigenous wildlife and their habitat; use by people should be compatible with that fundamental purpose...." (page 12).

More comprehensive refuge legislation, that builds upon the solid foundation provided by the Congress under the leadership of Representative John Dingell, is needed to guide the administration of the system into the 21st century. Organic legislation must clearly set forth the primacy of the conservation purposes of refuge units and the System as a whole. It must also provide: affirmative duties for the Secretary of Interior; a sound basis and process for determining the compatibility of secondary recreational and economic uses of refuges; and establish System and unit planning requirements.

If at all possible, organic legislation should include a provision to ensure that the activities of other federal agencies are not allowed to impair refuge resources unless specifically authorized by law.

Under no circumstances should new legislation undermine the protection afforded to refuges by the existing law: The Refuge Administration Act and the Refuge Recreation Act. Nor should any special interest receive preferential treatment. All should be treated equally and held to the long-standing test of compatibility with refuge purposes.

I am asking the National Wildlife Refuge Association to submit my letter for the record of the hearing. Thank you for your consideration of my views in evaluating HR 833 and S 823.

Sincerely,

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August 2, 1994

Representative Gerry Studds, Chairman
House Merchant Marine and Fisheries Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr Chairman,

Over the near six years I served Presidents Nixon and Ford as Assistant Secretary of Interior for Fish, Wildlife and Parks, I participated in the incredible expansion of the National Wildlife Refuge system. From Alaska to Florida, Maine to Arizona, successive administrations, with the full support of the Congress, dramatically not only increased the size of the system, but added many areas that had only been dreams in the 1940's and 1950's.

I visited many of the refuges across our land, spoke to hundreds of Refuge Managers and assistants. They all -- to the man and woman -- told the same story: they needed an organic act to guide the management of their precious areas. Working with Senator Graham, I have continued my interest in the potential for an "Organic Act."

I recognize that opponents of any form of progress will attempt to spot an anti- hunting bias in the proposed Organic Bill. Those are the same voices that have opposed every meaningful step toward environmental sanity in this country.

Hunting is a non issue. The current Director has made that point very clear. There may be refuges that should be closed to hunting for a variety of reasons, but they are few and far between. What the Fish and Wildlife Service clearly needs is a management credo, which is why the Organic Act is so important. I note with anguish the same old tactics of opposition, the dissemination of misinformation with a mutual effort to fund raise.

The House Merchant Marine and Fisheries Committee, republican and democrat, have faced many serious issues over the years. The Organic Act is one of the most important -- not only for the Fish and Wildlife Service but for the larger constituent -- the American people. I wish I could personally attend the hearings and testify before my favorite committee, but I just returned from a long visit abroad and am sick with some stomach fluke that is giving me fits.

I have my fingers crossed that truth and common sense will prevail over the traditional foes of any progress.

Sincerely,

Nathaniel P. Reed

/j
cc: Senator Graham
Merchant Marine & Fisheries Committee Members

PS: Please add my letter to the Hearings record.

The Honorable Gerry E. Studds
Chairman, Environment and Natural Resources Subcommittee
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I wish to commend you for holding a timely hearing on August 9, 1994 to consider "organic" legislation for the National Wildlife Refuge System specifically HR 833 and S. 823.

As Assistant Secretary for Fish and Wildlife and Parks at The Department of the Interior from 1989 to 1991 under President Bush, I took a special interest in the unique National Wildlife Refuge System. During my tenure at Interior, I emphasized the need to protect this valuable network of habitats set aside to conserve our fish and wildlife resources and the important role of refuges in environmental education.

From my experience, I believe more comprehensive refuge legislation that builds upon the foundation provided by the Refuge Recreation Act of 1962 and the Refuge Administration of 1966 is needed. Organic legislation should clearly set forth the primacy of the conservation purposes of refuges while continuing to provide for their public enjoyment in compatible ways. Provision for environmental education and wildlife oriented recreation where appropriate and compatible, are important to building public awareness and support for the Refuge System. All refuge users should be treated equally in a clearly defined process for determining the compatibility of their activities with refuge purposes.

Organic legislation should also provide affirmative duties for the Interior Secretary to protect refuges and to carry out the purposes of the Refuge System and individual refuges; and establish System and unit planning requirements. In addition, there is a need for the legislation to include a provision to ensure that other federal agencies consult with the U.S. Fish and Wildlife Service to insure that their activities are specifically authorized by law.

In summary, I recommend that new legislation should uphold and improve upon the protection afforded to refuges by existing law. I am asking the National Wildlife Refuge Association, of which I am a board member, to submit my letter for the record of the hearing. Thank you for your consideration of my views.

Sincerely,

Constance B. Harriman

Constance B. Harriman

Little Sandy Hunting & Fishing Club
Unit of the National Wildlife Refuge System
Hawkins, Wood County, Texas
Reply To: P. O. Box 6950 - Longview, Texas 75608
903-759-3828

August 9, 1994

The Honorable Gerry Studds, Chairman
The Honorable Members
Subcommittee on the Environment and Natural Resources
U. S. House of Representatives
Washington, D.C. 20515

Dear Mr. Studds and Members of the Subcommittee:

Since donating a conservation easement on our 3800 acre old-growth bottomland hardwood forestland to the U. S. Fish and Wildlife Services to establish the Little Sandy Refuge in 1986, the Little Sandy Hunting and Fishing Club has taken an interest in management of the National Wildlife Refuge System.

We join other sportsmen's organizations in supporting H.R. 833, to establish consistant management and sound compatibility standards for refuges.

We are concerned with provisions that were added to the Senate version of the bill, granting other federal agencies broad exemptions for such activities as building highways and navigational aids. We urge you to pass H.R. 388 from your committee without these weakening amendments.

Thank you for the oportunity to comment on H.R. 833. We would be happy to have any Members of the Subcommittee as our guests at Little Sandy.

Sincerely,

Joe H. Sharp, Jr.

JHS/db

Working for the Nature of Tomorrow.

NATIONAL WILDLIFE FEDERATION, 1400 Sixteenth Street, N.W., Washington, D.C. 20036-2266 (202) 797-6800
Office of the President

August 8, 1994

RECEIVED
AUG 9 1994
COMMITTEE ON MERCHANT MARINE AND FISHERIES

The Honorable Gerry Studds
Chairman
House Merchant Marine and Fisheries Committee
U.S. House of Representatives
1334 Longworth House Office Building
Washington, D.C. 20515

Dear Gerry:

I am writing with respect to the August 9, 1994 hearing before the Environment and Natural Resources Subcommittee of the House Merchant Marine and Fisheries Committee on the management of the National Wildlife Refuge System. Like you, the National Wildlife Federation (NWF) has a long and abiding interest in the growth and management of the National Wildlife Refuge System. We offer the following comments on pending refuge legislation and ask that this letter be made part of the hearing record.

We have closely followed H.R. 833, the National Wildlife Refuge System Management and Policy Act, introduced by Representatives Gibbons and Synar. In fact, last year we submitted written testimony to the Senate Environment and Public Works Committee on an identical bill, S. 823, introduced by Senator Graham. Attached for the record is a copy of our original testimony.

As you know, S. 823 has been reported out of committee. We are pleased that in its current form, S. 823 addresses the concerns expressed in our original Senate testimony. We urge this subcommittee to similarly amend H.R. 833.

While we are pleased that S. 823 now addresses our concerns, we have several new concerns as a result of the committee markup. Our first concern is with activities on a refuge where a Federal agency other than the U.S. Fish and Wildlife Service has primary jurisdiction. Language should be added, specifying that in these situations any activities unrelated to the primary mission of that particular agency are to meet the same combatability standards as already provided in the bill.

- Over -

Second, the Senate committee report indicates that there shall be no expansion of Air Force activities on the portions of Desert National Wildlife Refuge to which the Department of Defense is given primary jurisdiction in trade for unidentified Department of Defense lands. The Senate report language specifying this restriction should be included in the actual bill.

Third, the exemption from compatibility for existing "highway rights of way" on refuges is narrowly construed in the Senate report. This language should also be incorporated into the final bill.

In conclusion, we urge your committee to move forward with adopting the language as reported out of the Senate committee, but with the above described changes.

Thank you for your consideration of this important issue.

Best personal regards.

Sincerely,

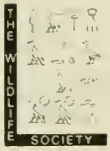
Jay

JAY D. HAIR

JDH/dbi

cc: Environment and Natural Resources Subcommittee
Senator Max Baucus
Senator John Chafee

Attachment



THE WILDLIFE SOCIETY

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September 16, 1994

The Honorable Gerry Studds, Chair
House Merchant Marine and Fisheries Committee
237 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Studds:

The Wildlife Society appreciates the opportunity to submit comments concerning National Wildlife Refuge policy. The Wildlife Society is the scientific and educational association of professional wildlife biologists dedicated to the sound stewardship of wildlife resources and their habitats.

The status and future of our National Wildlife Refuges is of paramount importance to the conservation of wildlife resources. With increasing human population pressures on our natural resources, the system will remain critical to wildlife conservation in the future.

The Wildlife Society would like to emphasize the following 4 points in support of the strengthened policy for conservation of our Nation's National Wildlife Refuges as outlined in H.R. 833:

1. Clearly define the goal and mission of the system as a whole.

2. Set specific goals, through management plans, for each individual refuge as well as the system as a whole.

3. Set strong guidelines and define a clear system for compatibility decisions.

4. Set guidelines for increased inter-agency cooperation and settlement of disputed areas such as joint Department of Defense/FWS areas and other jointly held land.

Purposes of the National Wildlife Refuge System

The refuge system is the only federal land-holding entity dedicated to "preserving, restoring and managing fish and wildlife and the habitats of fish and wildlife." H.R. 833 reaffirms this clear goal for the system.

The conservation of the nation's wildlife depends upon the wise management of dwindling resources. The refuge system should support diversity; however, maximizing biological diversity may not

be an appropriate overriding goal for every individual refuge. Refuge policy should assure that species and their habitats are not detrimentally affected as a result of a focus on overall biological diversity needs.

The primary mission of the refuge system should remain unchanged, with no additional primary purposes.

Planning

The setting of specific plans for each refuge would ensure a clear management strategy for each refuge. It would allow the refuge manager to allocate activities more effectively. Section 7 paragraph 2A that calls for the Secretary to identify and describe "the distribution, migration patterns and abundance of fish, wildlife and plant populations and the diversity of habitats and natural communities within a planning unit" should be retained. Such information is the basis of sound conservation activities and no plan should be produced without this information.

Compatibility

The National Wildlife Refuge Act allows non-conservation use of refuge lands if the activities are deemed "compatible" with the purposes and mission of the individual refuge. This policy should be continued but with clearer guidelines to measure compatibility. A growing number of incompatible activities have been found on refuge land. Refuge managers, not having a clear directive in this area, have not been able to control some of these harmful activities.

A 1989 GAO report "National Wildlife Refuges: Continuing Problems with Incompatible Uses Call for Bold Action", found incompatible activities on 59% of all refuges, according to their managers. These findings were backed up by a Fish and Wildlife Service report in 1991, "Report of Secondary Uses Occurring on National Wildlife Refuges." Activities cited as harmful include;

- power boating and jet skiing, which kill and harass wading birds such as herons, egrets and waterfowl.
- Over-grazing, especially in riparian areas, which affects water quality, hydrological regimes and unique habitat.
- off-road vehicular traffic which harass wildlife, destroy nests and wildlife.

Current law already allows that such activities may be barred from refuges, however, no formal system for doing so exists. Therefore TWS supports section 2 paragraph b4, which improves the compatibility determination process for the system. However, section 6 should clearly allow public involvement in the compatibility determination process.

Additionally, TWS supports section 11 paragraph which gives the Secretary of the Interior emergency powers, allowing for quick responses to new information. This can stop or prevent environmental damage that would otherwise be allowed while a long-term solution was pursued.

Inter-agency cooperation

The Wildlife Society encourages greater communication among agencies, especially when they overlap jurisdiction on refuge land. Through further communication among agencies such as the Department of Defense, disturbances such as fly-overs and bombing range use of refuges should be eliminated or rectified.

Agency activities should be held to the same compatibility standard as non-federal activities. Other agencies should be required to avoid any activities that may be detrimental to the refuge purpose, and only when this is not possible, should mitigation by applied.

Activities such as military use, navigation and transportation aides, and roadways should be subject to compatibility criteria to a larger extent than is set forth in the current language. These activities should be controlled by the refuge.

Conclusion

The National Wildlife Refuge system has a long, productive history of protecting the nations wildlife. As we near its 100th anniversary, this legislation will ensure that the system will continue its wildlife conservation mission.

Sincerely,

Thomas M. Franklin
Wildlife Policy Director

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SOUTHEASTERN MONTANA SPORTSMEN ASSOCIATION

Billings, MT
August 8, 1994

The Honorable Gerry E. Studds
Chairman, Environment and Natural
Resources Subcommittee
U. S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We thank you for holding the August 9, 1994 hearing on the "organic" legislation concerning the National Wildlife Refuge System.

More comprehensive legislation is needed to complement and expand the Refuge Administration and the Refuge Recreation Acts, and to assure that refuges will be managed in perpetuity to serve the public interest without interference from commercialism and incompatible uses.

We believe that our National Wildlife Refuges are just as important as other federal areas.

We urge that the new legislation include language to:

1. Reaffirm the uniqueness, superiority and basic public need for the conservation ethic of our refuges and the System.
2. Firm up and expand the duties of the Secretary of the Interior to enable him to protect all refuges from commercialization or any other use that is incompatible with the primary purpose of the refuges.
3. Prevent the weakening of existing refuge laws.
4. Establish specific planning requirements for each refuge and the entire System.
5. Develop a detailed process for determining the compatibility of secondary recreational and commercial uses on refuges.
6. Assure that the activities of other federal agencies do not degrade the natural resources of any refuge without specific authorization by law.
7. Prohibit activities by any other federal agency that would require mitigation on refuges.
8. Prohibit broad exemptions by any other federal agency for any activity that may adversely affect the natural resources of any refuge.
9. Assure that special interest groups do not receive preferred treatment.
10. Provide for equal treatment of all legitimate uses on refuges.
11. Assure that all uses on refuges will satisfy the compatibility "test of time."

We appreciate the opportunity to comment and urge that you consider our above suggestions in evaluating H.R. 833 and S. 823.

Sincerely yours,

Paul F. Berg

Paul F. Berg, PRESIDENT
SOUTHEASTERN MONTANA SPORTS
3708 Harry Cooper Pl.
Billings, MT 59106-1025
Phone: (406) 656-2015

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

ADDRESS ONLY THE DIRECTOR
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In Reply Refer To:
FWS/RF/CCU94-03134

AUG 9 1994

Honorable Blanche M. Lambert
House of Representatives
Washington, D.C. 20515-0401

Dear Ms. Lambert:

Thank you for your letter of July 14, 1994, regarding hunting and fishing on national wildlife refuges. I hope that the information provided below will be of assistance to both you and your constituents.

I would like to emphasize that the U.S. Fish and Wildlife Service (Service) continues to support hunting and fishing on national wildlife refuges; there is no plan to eliminate hunting and sport fishing. The recent settlement of the compatibility lawsuit requires the Service to review all secondary uses on national wildlife refuges to ensure that they are compatible with the major purposes for which the respective units were established. In addition, the settlement requires that the Service certify adequate funding for the administration of recreational activities pursuant to the Refuge Recreation Act. Hunters and anglers have been in the vanguard of the wildlife conservation movement since its very beginning, and have willingly provided enormous financial support for wildlife management programs. The Service would not turn its back on this vital constituency.

While the Service cannot prejudge the findings of refuge managers, the settlement appears unlikely to have a major impact on hunting and fishing on refuges. The Service conducted an extensive survey of the 6,300 recreational and commercial uses on the Refuge System's 91 million acres in 1990. Only 2 percent of these uses were deemed incompatible at the time. In the case of hunting, refuge managers have been certifying compatibility annually for several years. Although this settlement will prompt a more thoroughly documented analysis of permitted uses (including hunting and fishing), we do not anticipate a significant number of additional incompatible uses to surface during the review. The funding analysis involved with compliance with the Refuge Recreation Act may uncover some recreational programs that are inadequately funded. However, at this time we do not know which recreational programs would be impacted, if at all.

Hunting and fishing will not cease during the compatibility review. Furthermore, even if the data requested in the settlement agreement was not produced within the time framework agreed upon, hunting and fishing would continue as always. The plaintiffs do not view hunting or fishing, per se, as unsuitable recreational activities. They only require that these activities be compatible.

The Service has taken every care to ensure that the requirements of the settlement are met in a timely fashion. If you have any further questions concerning this matter, please do not hesitate to contact me again. We appreciate your concern for these programs and the National Wildlife Refuge System.

Sincerely,

MOLLIE H. BEATTIE

DIRECTOR

Enclosure

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